

*State of Iowa*

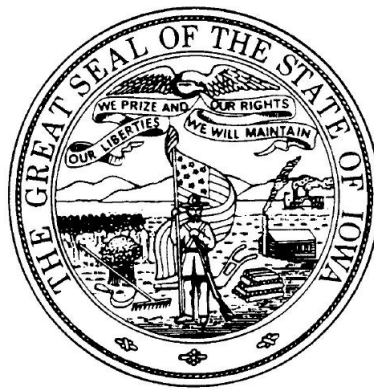
# **Iowa**

# **Administrative**

# **Code**

# **Supplement**

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ADMINISTRATIVE CODE EDITOR

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The Iowa Administrative Code Supplement is published biweekly pursuant to Iowa Code section 17A.6. The Supplement contains replacement chapters to be inserted in the loose-leaf Iowa Administrative Code (IAC) according to instructions included with each Supplement. The replacement chapters incorporate rule changes which have been adopted by the agencies and filed with the Administrative Rules Coordinator as provided in Iowa Code sections 7.17 and 17A.4 to 17A.6. To determine the specific changes in the rules, refer to the Iowa Administrative Bulletin bearing the same publication date.

In addition to the changes adopted by agencies, the replacement chapters may reflect objection to a rule or a portion of a rule filed by the Administrative Rules Review Committee (ARRC), the Governor, or the Attorney General pursuant to Iowa Code section 17A.4(6); an effective date delay imposed by the ARRC pursuant to section 17A.4(7) or 17A.8(9); rescission of a rule by the Governor pursuant to section 17A.4(8); or nullification of a rule by the General Assembly pursuant to Article III, section 40, of the Constitution of the State of Iowa.

The Supplement may also contain replacement pages for the IAC Index or the Uniform Rules on Agency Procedure.

# **INSTRUCTIONS**

## **FOR UPDATING THE**

### **IOWA ADMINISTRATIVE CODE**

Agency names and numbers in bold below correspond to the divider tabs in the IAC binders. New and replacement chapters included in this Supplement are listed below. Carefully remove and insert chapters accordingly.

Editor's telephone (515)281-3355 or (515)242-6873

#### **Administrative Services Department[11]**

Replace Chapter 101

#### **Inspections and Appeals Department[481]**

Replace Chapter 67

#### **Iowa Public Information Board[497]**

Replace Analysis

Replace Chapter 2

Insert Chapter 9

#### **Professional Licensure Division[645]**

Replace Analysis

Replace Chapters 4 and 5

Replace Chapters 121 to 124

#### **Dental Board[650]**

Replace Chapter 10

#### **Revenue Department[701]**

Replace Chapter 71

#### **Labor Services Division[875]**

Replace Chapter 26



## CHAPTER 101

## PARKING

[Prior to 5/26/04, see 401—Ch 4]

**11—101.1(8A) Purpose.**

**101.1(1)** The purpose of these rules is to provide citizens with the most convenient access to Iowa state offices on the capitol complex, to provide state employees a parking space within a reasonable distance of their offices, to remove the hazards inherent in unregulated parking, to define prohibited parking, and to set forth fines and the means of enforcement.

**101.1(2)** Parking spaces or lots will be assigned to three classes of drivers: (1) visitors and employees with disabilities, (2) other visitors, and (3) other employees.

**101.1(3)** Capitol complex parking area designations may be found on the department's Web site at <https://das.iowa.gov/general-services/capitol-complex-events/parking-information>.

[Editorial change: IAC Supplement 9/16/15]

**11—101.2(8A) Definitions.** The following definitions shall apply to this chapter.

*"Access coordinator"* means an employee, designated within each agency, with the assigned duties of disseminating information on capitol complex parking and building access and requesting and distributing employee parking permits and access cards from the department of administrative services, the department of public safety, and the house of representatives or the senate, as appropriate, for employee parking lot assignment and building access.

*"Capitol complex"* means an area within the city of Des Moines in which the Iowa state capitol building is located. This area includes the state capitol building and all real property and appurtenances thereto owned by the state of Iowa within an area bounded on the north by Interstate Highway 235, on the east by East 14th Street, on the south by the northernmost railroad tracks south of Court Avenue and on the west by East 6th Street.

*"Capitol complex parking area"* means a parking lot or parking structure for employees or visitors that is within the boundaries of the capitol complex and that is under the control of the executive branch of state government.

*"Combined lot"* or *"overflow lot"* means a parking area designated by the department of administrative services for both employees and visitors.

*"Controlled lot"* means a parking area for which access or usage is designated by any of the following: parking gates, vehicle decals, signs, symbols, or markings.

*"Council member"* means a member of a state board, committee, commission, or council who is not a full-time state employee and who is present on the capitol complex only on an occasional basis in the member's official capacity.

*"Delinquent"* means a parking fine that has not been paid within 30 days of issuance. If the owner or operator of the vehicle contests the parking citation by filing a written request for hearing within 10 days of the issuance of the citation, the fine will be suspended pending the outcome of the contested case. If the appeal decision upholds the citation, an unpaid fine shall become delinquent 10 days after issuance of the final decision or 31 days after issuance of the ticket, whichever is later.

*"Department"* means the department of administrative services.

*"Director"* means the director of the department of administrative services or the director's designee.

*"Employee"* means any person employed full-time or part-time by the state of Iowa, including legislators, judges, and temporary workers. "Employee" includes a contractor and the contractor's employees who regularly work on the capitol complex. "Employee" shall also mean a council member who is at the capitol complex in the member's official capacity.

*"Habitual violator"* means any owner or operator of a vehicle who has received six or more separate and distinct parking citations in the past 12 months regardless of whether payment for the citations is made in a timely manner.

*"Legislative parking area"* means a parking lot within the boundaries of the capitol complex that is under the control of the legislative branch of state government.

*"Operator"* means any person who is in actual physical control of a vehicle.

*“Overnight parking”* means parking on the capitol complex between 11 p.m. and 6 a.m.

*“Overtime parking”* means parking in a space or parking area longer than the posted time limit.

*“Owner”* means a person who is named on the legal title of a vehicle as the owner or, in the case of a vehicle without a title certificate, the person who is lawfully seized of the vehicle.

*“Parking permit”* means a device such as but not limited to a decal, placard or tag distributed by the department of administrative services or the legislative branch and used to identify the vehicle of a state employee or council member in capitol complex and legislative parking areas.

*“Peace officer”* means a person defined as a peace officer in Iowa Code section 801.4, who is assigned to the Iowa state patrol district 16 on either a permanent or temporary basis.

*“Persons with disabilities parking permit”* means a permit as defined in Iowa Code section 321L.2 that bears the international symbol of accessibility and that is issued by the department of transportation or by the corresponding agency of another state that allows the holder to park in a persons with disabilities parking space.

*“Persons with disabilities parking sign”* means a sign that bears the international symbol of accessibility and that meets the requirements of Iowa Code section 321L.6.

*“Persons with disabilities parking space”* means a parking space, including the access aisle, that is designated for use only by motor vehicles displaying a persons with disabilities parking permit and that meets the requirements of Iowa Code sections 321L.5 and 321L.6 and 661—Chapter 18.

*“Person with a disability,”* as defined in Iowa Code section 321L.1, means a person who has a disability that limits or impairs the person’s ability to walk.

*“Reserved parking”* means a parking area designated by a “reserved” parking sign or other assignment indicator pursuant to subrule 101.3(2), and assigned by the director to a specific agency, vehicle or individual.

*“Vehicle”* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. “Vehicle” does not include any device moved by human power.

*“Visitor”* means a member of the public at the capitol complex who is not included in the definition of employee.

#### **11—101.3(8A) Parking space assignments.**

**101.3(1)** Each parking space on the capitol complex will be assigned, on an individual or lot basis, by the director, except legislative parking areas which shall be assigned by the chief clerk of the house of representatives or the secretary of the senate or by the legislative council. Parking assignments may be dependent upon factors including, but not limited to, office location, type of vehicle (such as an oversized vehicle or a motorcycle), or the need to park after normal working hours.

**101.3(2)** The assignment of parking spaces will be indicated and designated by traffic control devices including but not limited to signs, instructions, lines or symbols painted on curbs or on parking surfaces, or by curbs, barricades, blocks, and lights.

**101.3(3)** A parking permit must be displayed by all vehicles parked by employees on the capitol complex.

#### **11—101.4(8A) Parking for persons with disabilities.**

**101.4(1)** Spaces designated for persons with disabilities in visitor parking areas, unless specifically posted for employee parking, shall be used only by visitors with disabilities or by persons transporting visitors with disabilities. Such visitors are required to display a persons with disabilities parking permit in or on their vehicle pursuant to Iowa Code section 321L.4.

**101.4(2)** Spaces designated for employees with disabilities shall be used only by employees with disabilities, or persons who are transporting employees with disabilities, who display a persons with disabilities parking permit in or on their vehicle pursuant to Iowa Code section 321L.4 and who display a capitol complex parking decal.

**11—101.5(8A) Visitor parking.** Visitors to the capitol complex shall park in areas designated for visitor parking, in combined lots, or on the street where parking is not prohibited. A visitor shall not park in a parking area posted for employee parking except as provided in subrule 101.9(4).

**11—101.6(8A) Deliveries.** Most buildings on the capitol complex have delivery entrances with limited space for parking while a person loads or unloads a vehicle. Drivers of delivery vehicles and others needing to load or unload their vehicles near the building shall use these entrances. Each of the restrictions and regulations contained in these rules, all traffic control devices, and state laws shall apply to delivery vehicles.

**11—101.7(8A) Employee parking.** Employees shall park only in assigned capitol complex employee parking areas or combined lots, and not in areas designated solely for visitors or otherwise reserved or restricted except as provided in subrule 101.9(4). An employee who is a council member shall be assigned a parking permit that, when displayed, will allow the council member to park in either an employee or a visitor parking area.

**101.7(1) Access card issuance.** The director or Iowa state patrol district 16 will issue to each employee an access card, if needed, for access to the employee's assigned lot. An access card shall be assigned to an employee by name for access granted to that employee. Generic or spare access cards shall not be issued.

**101.7(2) Parking permit issuance.** All employees who park any vehicle, other than a state vehicle, on the capitol complex shall register the vehicle through their access coordinator and obtain a parking permit and a space or lot assignment. The parking permit will be coded and shall be used only in the assigned space or lot(s).

*a.* All employees, except legislative employees, who park any vehicle, other than a state vehicle, on the capitol complex shall register the vehicle with the department of administrative services through their access coordinator.

*b.* Legislative employees must register with the chief clerk of the house of representatives or the secretary of the senate for a parking permit and a parking space or lot assignment, unless such registration and assignment are delegated by the legislative branch to another entity.

*c.* The department may establish a process for issuing nonadhesive capitol complex parking permits to an access coordinator for temporary use by employees from the coordinator's agency who normally do not work on the capitol complex and to council members associated with the coordinator's agency. Access coordinators shall record the number from the temporary permit and forward this information to the department as requested. The access coordinator shall collect the temporary permit from the driver when the driver no longer needs a parking permit.

**101.7(3) Failure to obtain a parking permit.** An employee who fails to register a vehicle pursuant to subrule 101.7(2) or fails to obtain a parking permit and a space or lot assignment shall not park in capitol complex parking areas.

**101.7(4) Display of permits.**

*a.* Parking decals with adhesive backing must be permanently affixed to the lower corner of the vehicle's windshield on the driver's side within 48 hours of issuance. The use of tape or adhesive other than that found on the decal to affix the parking decal is prohibited.

*b.* Dash placards shall be placed on the vehicle's dashboard so they are visible through the windshield on the driver's side.

*c.* Hangtags shall be hung from the vehicle's rearview mirror.

**101.7(5) Replacement of parking permits.**

*a.* *Lost parking permit.* An employee or a council member shall replace a lost parking permit by contacting the access coordinator and making application to the department of administrative services or the chief clerk of the house of representatives or the secretary of the senate, as appropriate.

*b.* *Damaged parking permit.* An employee or a council member shall replace a parking permit that becomes damaged or unidentifiable or a decal that is affixed to a vehicle being reassigned to a parking

area that requires a different parking permit by contacting the access coordinator and making application to the department, or legislative branch, as appropriate.

**101.7(6) *Removal of parking permits.*** A parking permit used in or affixed to a vehicle that is no longer being driven to the capitol complex by the employee or council member to whom the parking permit was issued shall be removed from the vehicle. When the individual to whom the parking permit was issued is no longer an employee, the parking permit shall be removed from the vehicle and returned to the individual's access coordinator.

**101.7(7) *Replacement access cards.***

*a. Replacement fee.* If an access card is lost or stolen, it shall be replaced upon approval of an application submitted through the access coordinator and payment of the fee prescribed by the director. The replacement fee shall be based on the costs of replacing the card.

*b. No replacement fee.* The first card issued to an individual and any card replacing one that failed and is returned to the Iowa state patrol district 16 shall be issued free of charge.

**101.7(8) *Access coordinator responsibilities.*** An agency access coordinator shall:

*a.* Assist employees from the coordinator's agency with completing and filing an application for an access card or parking permit.

*b.* Ensure that employees of the coordinator's agency are familiar with the rules of this chapter and the procedures for obtaining a parking permit and access card.

*c.* Assist with distribution of parking permits to employees of the coordinator's agency.

#### **11—101.8(8A) Temporary parking.**

**101.8(1)** A request to park temporarily for the purpose of loading or unloading a vehicle in an area where parking is prohibited shall be directed to the Iowa state patrol district 16 at (515)281-5608. The requester shall provide the driver's name, license plate number of the vehicle and where it is parked.

**101.8(2)** An individual who is a visitor on the capitol complex and who drives a vehicle with a parking decal assigned to a specific employee lot may park in a visitor's space provided permission is granted by the Iowa state patrol district 16. The driver shall immediately telephone the Iowa state patrol district 16 at (515)281-5608 and give the driver's name, license plate number of the vehicle and where it is parked. The driver will receive instructions on obtaining permission.

**101.8(3)** An employee who drives a vehicle that has not been registered pursuant to subrule 101.7(2) or is without a parking decal pursuant to subrule 101.7(4) must obtain permission from Iowa state patrol district 16 to temporarily park on the capitol complex. The driver shall immediately telephone Iowa state patrol district 16 at (515)281-5608 and give the driver's name, license plate number of the vehicle and where it is parked. The driver will receive instructions on obtaining permission.

**101.8(4)** Temporary parking permission granted under subrule 101.8(1), 101.8(2), or 101.8(3) shall not constitute a waiver of the rules in this chapter.

**11—101.9(8A) Prohibited parking.** Failure to locate a space where parking is permitted in a designated capitol complex parking area does not entitle the operator to park in a manner prohibited by this chapter or state law.

**101.9(1)** Vehicles shall not be parked in a manner that violates any of the rules in this chapter or state law.

**101.9(2)** Vehicles shall not be parked in a manner that causes:

- a.* More than one space to be occupied by a single vehicle.
- b.* A street, parking lot lane or traffic lane within a capitol complex parking lot to be blocked.
- c.* A building entrance to be blocked or obstructed.
- d.* Access to fire hydrants, emergency equipment or vehicles to be blocked or obstructed.
- e.* Obstruction of the egress of another vehicle.
- f.* Pedestrian walkways or sidewalks to be obstructed or blocked.
- g.* Occupation of an area where vehicle parking is prohibited.
- h.* Overtime parking.



**101.9(3)** A vehicle shall not be parked in a space designated for use by visitors with disabilities unless the driver is a visitor with disabilities or is transporting a visitor with disabilities. A vehicle shall not be parked in a space designated for use by employees with disabilities unless the driver is an employee with disabilities or is transporting an employee with disabilities.

**101.9(4)** A vehicle shall not be parked in a space or lot unless that space or lot is designated for use by or assigned to the driver. However, general employee or visitor spaces or lots that are not otherwise designated (by sign or symbol that indicates a restricted or continuous reserved status, such as legislator, emergency or delivery vehicle, or persons with disabilities) may be used between 6 p.m. and 6 a.m. and during weekends and state government holidays, except as otherwise specified by this rule.

**101.9(5)** Vehicles shall not be parked on curbs, on grass or in any area not intended for vehicle parking.

**101.9(6)** Delivery vehicles shall not be parked in a manner or for a period of time that does not comply with the restrictions established for those vehicles by the director or with a traffic control device.

**101.9(7)** A vehicle with a delinquent parking ticket shall not be allowed to be parked on the capitol complex.

**101.9(8)** Vehicles of habitual violators shall not be allowed to be parked on the capitol complex.

**101.9(9)** If any vehicle is found stopped, standing or parked in any manner in violation of the provisions of these rules and the identity of the operator cannot be determined, the owner or operator or corporation in whose name the vehicle is registered shall be held responsible for the violation.

**101.9(10)** Vehicles shall not be parked on the capitol complex overnight in parking areas not specifically designated for overnight parking when there are conditions of snow or ice or when the department closes an area for maintenance.

**11—101.10(8A) Waiver.** As the purpose of these rules is to facilitate the system of parking, to encourage compliance and to reduce conflict, any rule contained herein, unless otherwise provided by law, may be suspended or waived by the director to aid law enforcement, to prevent undue hardship in any particular instance or to prevent unnecessary conflict or injustice. All suspensions and waivers shall be in writing. The director may change space and lot designations, excluding those in legislative parking areas, temporarily or permanently, to maintain appropriate availability of parking on the capitol complex. Waiver of these rules shall be requested in accordance with 11—Chapter 9.

**11—101.11(8A) Enforcement.**

**101.11(1)** Peace officers assigned to the Iowa state patrol district 16 shall be primarily responsible for the enforcement of these rules.

**101.11(2)** The Iowa state patrol peace officers may in their discretion enforce these rules by:

- a. Issuing oral or written orders or directions to an owner or operator.
- b. Issuing a citation.
- c. Removing a vehicle or causing a vehicle to be removed in accordance with subrule 101.11(6).

**101.11(3)** The director may rescind the privilege to park on the capitol complex for any vehicle for which there is a delinquent parking ticket.

**101.11(4)** The director may rescind the privilege to park on the capitol complex for any vehicle of a habitual violator.

**101.11(5)** Removal of vehicles.

- a. A vehicle may be removed for nonpayment of all parking fines whether or not the vehicle is illegally parked at that time, when there are delinquent parking fines for the vehicle or registration plates.
- b. A peace officer shall have the right to remove from the capitol complex the vehicle of a habitual violator.

**101.11(6)** If a peace officer determines that a vehicle is to be removed, the peace officer shall have the vehicle removed by the use of state equipment or by a private towing firm or contractor.

**101.11(7)** The director may contract with an individual or firm to provide services for removing (towing) vehicles found in violation of these rules or state law and to store such vehicles until claimed by the owner or disposed of as abandoned vehicles.

**101.11(8)** A peace officer, upon impounding a vehicle, shall give notice in person, by telephone or by ordinary mail to the owner of the vehicle. The notice shall state the specific violation or other reason for which the vehicle was impounded, its location and the fee for the removal, storage and notice. The towing firm or individual shall release the vehicle to the owner upon notification by the department of administrative services that the owner or operator has paid all outstanding citations and after the service fee has been paid to the towing firm or individual. The amount of this fee will be determined by the agreement between the director and the individual or firm.

**101.11(9)** If an owner or operator returns to the vehicle prior to its removal, but after the towing contractor has been summoned, the peace officer may require that the vehicle remain on the capitol complex until the towing contractor arrives. Upon the towing contractor's arrival, the vehicle may be allowed to be moved after the operator pays the towing contractor the cost of the service call and after the department of administrative services notifies the peace officer that all delinquent parking fines have been paid. The towing firm or individual shall issue a receipt for payment of the cost of the service call to the owner or operator.

**101.11(10)** An operator who enters a parking lot in a manner not consistent with usual parking lot access procedures shall be subject to a parking citation and possible charges for damages. Access to parking lots inconsistent with usual access procedures includes, but is not limited to: closely following another vehicle into a parking lot in a manner that prevents the gate from closing between vehicles; opening a gate for unauthorized persons with another operator's access card; driving over the curb or around the gate; driving through a gate that is not fully raised; or lifting a parking gate without authorization.

**101.11(11)** In addition to any enforcement action taken under this rule, charges may be filed under other criminal statutes if appropriate.

#### **11—101.12(8A) Fines.**

**101.12(1)** A fine of \$10 is hereby established for the violation of any of these rules, except those pertaining to persons with disabilities parking.

**101.12(2)** The parking fine shall be increased by \$10 for all outstanding delinquent violations if the fine is not or has not been paid within 30 days of the date upon which the violation occurred.

**101.12(3)** Improper use of a persons with disabilities parking space is subject to a fine pursuant to Iowa Code section 321L.4(2).

**101.12(4)** A violator may be notified of a violation by being served with a parking violation ticket which:

*a.* May be served personally to the operator or placed upon the vehicle that is parked in violation of a rule.

*b.* Advises the operator of the rule violated.

*c.* Instructs the operator that the operator is required for each violation to pay \$10 to the department of administrative services within 10 days by submitting the ticket or the ticket number and payment in cash or a check or money order payable to the Department of Administrative Services, Customer Service Center, Hoover State Office Building, Level A, Des Moines, Iowa 50319.

*d.* Warns the operator that:

(1) The director may rescind the parking privilege of any owner or operator who has a delinquent parking ticket.

(2) The director may rescind the parking privilege of any owner or operator who meets the definition of "habitual violator."

When the parking privilege is rescinded, the vehicle shall not be allowed to be parked in any capitol complex parking area until all fines are paid or the owner or operator no longer meets the definition of "habitual violator." Peace officers may tow any vehicle parked on the capitol complex for which parking privileges have been rescinded.

*e.* Warns the violator that failure to pay the fine may result in the director's proceeding against the violator in an Iowa district court.

*f.* Advises the operator of how to obtain a hearing on the charges.

g. Warns that the fine for each separate violation shall be increased by \$10 if the parking ticket is not paid within 30 days of the date upon which the violation occurred.

**11—101.13(8A) Appeals.** Appeals regarding enforcement of parking rules shall be pursuant to 11—Chapter 7, Contested Cases.

If the owner or operator wishes to contest a parking citation, the fees paid because of the removal or attempted removal of the vehicle, or any other action arising from these rules, the owner or operator shall notify the director in writing within ten days of the action. Upon such notification, the owner or operator will be provided with written instructions that describe the procedure the director will use to conduct a hearing to consider the owner's or operator's evidence and arguments.

These rules are intended to implement Iowa Code Supplement sections 8A.322 and 8A.323.

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[Filed emergency 6/18/04—published 7/7/04, effective 6/30/04]

[Filed 11/4/05, Notice 9/28/05—published 11/23/05, effective 12/28/05]

[Editorial change: IAC Supplement 9/16/15]



CHAPTER 67  
GENERAL PROVISIONS FOR ELDER GROUP HOMES, ASSISTED LIVING PROGRAMS,  
AND ADULT DAY SERVICES

**481—67.1(231B,231C,231D) Definitions.** The following definitions apply to this chapter and to 481—Chapters 68, 69, and 70.

*“Activities of daily living”* means the following self-care tasks: bathing, dressing, grooming, eating, transferring, toileting, and ambulation.

*“Ambulatory”* or *“ambulation”* means physically and cognitively able to walk without aid of another person.

*“Applicable requirements”* means Iowa Code chapters 135C, 231B, 231C, 231D, 235B, 235E, and 562A, this chapter, and 481—Chapters 68, 69, and 70, as applicable, and includes any other applicable administrative rules and provisions of the Iowa Code.

*“Assignment”* means the distribution of work for which each staff member, regardless of certification or licensure status, is responsible during a given work period and includes a nurse directing an individual to do something the individual is already authorized to do.

*“Assistance”* means aid to a tenant who self-directs or participates in a task or activity or who retains the mental or physical ability, or both, to participate in a task or activity. Cueing of the tenant regarding a particular task or activity shall be construed to mean the tenant has participated in the task or activity.

*“Blueprint”* means copies of all completed drawings, schedules, and specifications that have been certified, sealed, and signed by an Iowa-licensed architect or Iowa-licensed engineer of record. The department may allow electronic transfer of blueprints pursuant to policy.

*“Certified staff”* means certified nursing assistants (CNAs) and certified medication assistants (CMAs) employed by the program.

*“Dementia”* means an illness characterized by multiple cognitive deficits which represent a decline from previous levels of functioning and includes memory impairment and one or more of the following cognitive disturbances: aphasia, apraxia, agnosia, and disturbance in executive functioning.

*“Department”* means the department of inspections and appeals.

*“Director”* means the director of the department of inspections and appeals.

*“Direct supervision”* means the provision of guidance and oversight of a delegated nursing task through the physical presence of the licensed nurse to observe and direct certified and noncertified staff.

*“Elope”* means that a tenant who has impaired decision-making ability leaves the program without the knowledge or authorization of staff.

*“Global Deterioration Scale”* or *“GDS”* means the seven-stage scale for assessment of primary degenerative dementia developed by Dr. Barry Reisberg.

*“Health care professional”* means a physician, physician assistant, registered nurse or advanced registered nurse practitioner licensed in Iowa by the respective licensing board.

*“Health-related care”* means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis. “Health-related care” includes nurse-delegated assistance.

*“Human service professional”* means an individual with a bachelor’s degree in a human service field including, but not limited to: human services, gerontology, social work, sociology, psychology, or family science. Two years of experience in a human service field may be substituted for up to two years of the required education. For example, an individual with an associate’s degree in a human service field and two years of experience in a human service field is a human service professional.

*“Impaired decision-making ability”* means a lack of capacity to make safe and prudent decisions regarding one’s own routine safety as determined by the program manager or nurse or means having a GDS score of four or above.

*“Independent reviewer”* means an attorney licensed in the state of Iowa who is not currently and has not been employed by the department in the past eight years, or has not appeared in front of the department on behalf of a health care facility in the past eight years. Preference shall be given to an attorney with background knowledge, experience or training in long-term care.

*“Indirect supervision”* means the provision of guidance and oversight of a delegated nursing task through means other than direct supervision, including written and verbal communication.

*“Instrumental activities of daily living”* means those activities that reflect the tenant’s ability to perform household and other tasks necessary to meet the tenant’s needs within the community, which may include but are not limited to shopping, housekeeping, chores, and traveling within the community.

*“Medication setup”* means assistance with various steps of medication administration to support a tenant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the tenant, reading instructions or other label information, or transferring medications from the original containers into suitable medication dispensing containers, reminder containers, or medication cups.

*“Modification”* means any addition to or change in physical dimensions or structure, except as incidental to the customary maintenance of the physical structure of the program’s facility.

*“Monitoring”* means an on-site evaluation of a program, a complaint investigation, or a program-reported incident investigation performed by the department to determine compliance with applicable requirements. A monitor who performs a monitoring for the department shall be a registered nurse, human service professional, or another person with program-related expertise.

*“Noncertified staff”* means unlicensed and uncertified personnel employed by the program.

*“Nurse delegation”* means the action of a registered nurse, advanced registered nurse practitioner, or licensed practical nurse to direct competent certified and noncertified staff to perform selected nursing tasks in selected situations. The decision of a nurse to delegate is based on the delegation process, including assessment, planning, implementation, supervision, and evaluation of the tenant, nursing tasks, personnel, and the situation. The nurse, as a licensed professional, retains accountability for the delegation process and the decision to delegate. Licensed practical nurses may delegate within the scope of their license with the supervision of a registered nurse.

*“Occupancy agreement”* or *“contractual agreement”* means a written contract entered into between a program and a tenant that clearly describes the rights and responsibilities of the program and the tenant and other information required by applicable requirements. An occupancy agreement may include a separate signed lease and signed service agreement.

*“Part-time or intermittent care”* means licensed nursing services and professional therapies that are provided no more than 5 days per week; or licensed nursing services and professional therapies that are provided 6 or 7 days per week for a temporary period of time with a predictable end within 21 days; or licensed nursing services and professional therapies that do not exceed 28 hours per week or, for adult day services, 4 hours per day and are provided in combination with nurse-delegated assistance with medications or activities of daily living.

*“Personal care”* means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, and grooming that are essential to the health and welfare of a tenant.

*“Physician extender”* means nurse practitioners, clinical nurse specialists, and physician assistants.

*“Preponderance of the evidence”* means that the evidence, considered and compared with the evidence opposed to it, produces the belief in a reasonable mind that the allegations are more likely true than not true.

*“Program”* means one or more of the following, as applicable: an elder group home as defined in Iowa Code section 231B.1 and 481—Chapter 68, an assisted living program as defined in Iowa Code section 231C.1 and 481—Chapter 69, or adult day services as defined in Iowa Code section 231D.1 and 481—Chapter 70.

*“Program staff”* means all employees of the program, regardless of certification or licensure status.

*“Qualified professional”* means a facility plant engineer familiar with the type of program being provided, or a licensed plumbing, heating, cooling, or electrical contractor who furnishes regular service to such equipment.

*“Recognized accrediting entity”* means a nationally recognized accrediting entity that the department recognizes as having specific program standards equivalent to the program standards established by the department.

*“Regulatory insufficiency”* means a violation of an applicable requirement.

*“Remodeling”* means a modification of any part of an existing building, an addition of a new wing or floor to an existing building, or a conversion of an existing building.

*“Routine”* means more often than not or on a regular customary basis.

*“Self-administration”* means a tenant’s taking personal responsibility for all phases of medication except for any component assigned to the program under medication setup, and may include the tenant’s use of an automatic pill dispenser.

*“Service plan”* means the document that defines all services necessary to meet the needs and preferences of a tenant, whether or not the services are provided by the program or other service providers.

*“Significant change”* means a major decline or improvement in the tenant’s status which does not normally resolve itself without further interventions by staff or by implementing standard disease-related clinical interventions that have an impact on the tenant’s mental, physical, or functional health status.

*“Substantial compliance”* means a level of compliance with applicable requirements such that any identified regulatory insufficiency poses no greater risk to tenant health or safety than the potential for causing minimal harm.

*“Tenant”* means an individual who receives services through a program. In the context of adult day services, “tenant” means a participant as defined in 481—Chapter 70.

*“Tenant advocate”* means the office of long-term care resident’s advocate established in Iowa Code section 231.42.

*“Tenant’s legal representative”* means a person appointed by the court to act on behalf of a tenant or a person acting pursuant to a power of attorney. In the context of adult day services, “tenant’s legal representative” means a participant’s legal representative as defined in 481—Chapter 70.

*“Waiver”* means action taken by the department that suspends in whole or in part the requirements or provisions of a rule.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1994C, IAB 5/27/15, effective 7/1/15]

**481—67.2(231B,231C,231D) Program policies and procedures, including those for incident reports.** A program’s policies and procedures must meet the minimum standards set by applicable requirements. The program shall follow the policies and procedures established by a program. All programs shall have policies and procedures related to the reporting of incidents including allegations of dependent adult abuse.

**67.2(1)** The program’s policies and procedures on incident reports, at a minimum, shall include the following:

- a. The program shall have available incident report forms for use by program staff.
- b. An incident report shall be in detail and shall be provided on an incident report form.
- c. The person in charge at the time of the incident shall prepare and sign the report.
- d. The incident report shall include statements from individuals, if any, who witnessed the incident.
- e. All accidents or unusual occurrences within the program’s building or on the premises that affect tenants shall be reported as incidents.
- f. A copy of the completed incident report shall be kept on file on the program’s premises for a minimum of three years.

**67.2(2)** The program’s policies and procedures on allegations of dependent adult abuse shall be consistent with Iowa Code chapter 235E and rules adopted pursuant to that chapter and, at a minimum, shall include:

- a. Reporting requirements for staff and employees, and
- b. Requirements that the victim and alleged abuser be separated.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.3(231B,231C,231D) Tenant rights.** All tenants have the following rights:

**67.3(1)** To be treated with consideration, respect, and full recognition of personal dignity and autonomy.

**67.3(2)** To receive care, treatment and services which are adequate and appropriate.

**67.3(3)** To receive respect and privacy in the tenant's medical care program. Personal and medical records shall be confidential, and the written consent of the tenant shall be obtained for the records' release to any individual, including family members, except as needed in case of the tenant's transfer to a health care facility or as required by law or a third-party payment contract.

**67.3(4)** To be free from mental and physical abuse.

**67.3(5)** To receive from the manager and staff of the program a reasonable response to all requests.

**67.3(6)** To associate and communicate privately and without restriction with persons and groups of the tenant's choice, including the tenant advocate, on the tenant's initiative or on the initiative of the persons or groups at any reasonable hour.

**67.3(7)** To manage the tenant's own financial affairs unless a tenant's legal representative has been appointed for the purpose of managing the tenant's financial affairs.

**67.3(8)** To present grievances and recommend changes in program policies and services, personally or through other persons or in combination with others, to the program's staff or person in charge without fear of reprisal, restraint, interference, coercion, or discrimination.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.4(231B,231C,231D) Program notification to the department.** The director or the director's designee shall be notified within 24 hours, or the next business day, by the most expeditious means available:

**67.4(1)** Of any accident causing major injury. For the purposes of this rule, "major injury" shall also mean a substantial injury.

*a.* "Major injury" shall be defined as any injury which:

- (1) Results in death; or
- (2) Requires admission to a higher level of care for treatment, other than for observation; or
- (3) Requires consultation with the attending physician, designee of the physician, or physician extender who determines, in writing on a form designated by the department, that an injury is a "major injury" based upon the circumstances of the accident, the previous functional ability of the tenant, and the tenant's prognosis.

*b.* The following are not reportable accidents:

- (1) An ambulatory tenant who falls when neither the program nor its employees have culpability related to the fall, even if the tenant sustains a major injury; or
- (2) Spontaneous fractures; or
- (3) Hairline fractures.

**67.4(2)** When damage to the program is caused by a natural or other disaster.

**67.4(3)** When there is an act that causes major injury to a tenant or when a program has knowledge of a pattern of acts committed by the same tenant on another tenant that results in any physical injury. For the purposes of this subrule, "pattern" means two or more times within a 30-day period.

**67.4(4)** When a tenant elopes from a program.

**67.4(5)** When a tenant attempts suicide, regardless of injury.

**67.4(6)** When a fire occurs in a program and the fire requires the notification of emergency services, requires full or partial evacuation of the program, or causes physical injury to a tenant.

**67.4(7)** When a defect or failure occurs in the fire sprinkler or fire alarm system for more than 4 hours in a 24-hour period. (This reporting requirement is in addition to the requirement to notify the state fire marshal.)

NOTE: Additional reporting requirements are created by other rules and statutes, including but not limited to Iowa Code chapters 235B and 235E, which require reporting of dependent adult abuse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.5(231B,231C,231D) Medications.** Each program shall follow its own written medication policy, which shall include the following:



**67.5(1)** The program shall not prohibit a tenant from self-administering medications.

**67.5(2)** A tenant shall self-administer medications unless:

a. The tenant or the tenant's legal representative delegates in the occupancy agreement or signed service plan any portion of medication setup to the program.

b. The tenant delegates medication setup to someone other than the program.

c. The program assumes partial control of medication setup at the direction of the tenant. The medication plan shall not be implemented by the program unless the program's registered nurse deems it appropriate under applicable requirements, including those in Iowa Code section 231C.16A and subrule 67.9(4). The program's registered nurse must agree to the medication plan.

**67.5(3)** A tenant shall keep medications in the tenant's possession unless the tenant or the tenant's legal representative, if applicable, delegates in the occupancy agreement or signed service plan partial or complete control of medications to the program. The service plan shall include the tenant's choice related to storage.

**67.5(4)** When a tenant has delegated medication administration to the program, the program shall maintain a list of the tenant's medications. If the tenant self-administers medications, the tenant may choose to maintain a list of medications in the tenant's apartment or to disclose a current list of medications to the program for the purpose of emergency response. If the tenant discloses a medication list to the program in case of an emergency, the tenant remains responsible for the accuracy of the list.

**67.5(5)** When medication setup is delegated to the program by the tenant, staff via nurse delegation may transfer medications from the original prescription containers or unit dosing into medication reminder boxes or medication cups.

**67.5(6)** When medications are administered traditionally by the program:

a. The administration of medications shall be provided by a registered nurse, licensed practical nurse or advanced registered nurse practitioner registered in Iowa or by certified and noncertified staff in accordance with subrule 67.9(4) or a physician assistant (PA) in accordance with 645—Chapter 327. Injectable medications shall be administered as permitted by Iowa law by a registered nurse, licensed practical nurse, advanced registered nurse practitioner, physician, pharmacist, or physician assistant (PA).

b. Medications shall be kept in a locked place or container that is not accessible to persons other than employees responsible for the administration or storage of such medications.

c. The program shall maintain a list of each tenant's medications and document the medications administered.

**67.5(7)** Narcotics protocol shall be determined by the program's registered nurse.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 1050C, IAB 10/2/13, effective 11/6/13]

**481—67.6(231B,231C,231D) Another business or activity located in a program.**

**67.6(1)** A business or activity serving persons other than tenants of a program is allowed in a designated part of the physical structure in which the program is located if the other business or activity meets the requirements of applicable state and federal codes, administrative rules, and federal regulations.

**67.6(2)** A business or activity conducted in the designated part of the physical structure in which the program is located shall not interfere with the use of the program by tenants or with services provided to tenants or disturb tenants.

**67.6(3)** A business or activity conducted in the designated part of the physical structure in which the program is located shall not reduce access, space, services, or staff available to tenants or necessary to meet the needs of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.7(231B,231C,231D) Waiver of criteria for retention of a tenant in the program.**

**67.7(1)** *Time-limited waiver.* Upon receipt of a program's request for waiver of the criteria for retention of a tenant, the department may grant a waiver of the criteria under applicable requirements

for a time-limited basis. Absent extenuating circumstances, a waiver of the criteria for retention of a tenant is limited to a period of six months or less.

**67.7(2) *Waiver petition procedures.*** The following procedures shall be used to request and to receive approval of a waiver from criteria for the retention of a tenant:

*a.* A program shall submit the waiver request on a form and in a manner designated by the department as soon as it becomes apparent that a tenant exceeds retention criteria pursuant to an evaluation by a health care or human service professional.

*b.* The department shall respond in writing to a waiver request within 15 working days of receipt of all required documentation. In consultation with the program, the department may take an additional 15 working days to report its determination regarding the waiver request.

*c.* The program shall provide to the department within 5 working days written notification of any changes in the condition of the tenant as described in the approved waiver request.

**67.7(3) *Factors for consideration for waiver of criteria for retention of a tenant.*** In addition to the criteria established in Iowa Code subsection 17A.9A(2), the following factors may be demonstrative in determining whether the criteria for issuance of a waiver have been met.

*a.* It is the informed choice of the tenant or the tenant's legal representative, if applicable, to remain in the program;

*b.* The program is able to provide the staff necessary to meet the tenant's service needs in addition to the service needs of the other tenants;

*c.* The department shall only issue a waiver if the waiver will not jeopardize the health, safety, security or welfare of the tenant, program staff, or other tenants; and

*d.* The tenant has been diagnosed with a terminal illness and has been admitted to hospice, and the tenant exceeds the criteria for retention and admission for a temporary period of less than six months. A terminal diagnosis means the tenant is within six months of the end of life.

**67.7(4) *Conditional waiver.*** A conditional waiver may be granted contingent upon the department's receipt of additional information or performance of monitoring.

*a.* If a waiver has been in effect for six months, a monitoring shall be conducted to determine whether the tenant meets the criteria to continue on a waiver.

*b.* The department may seek additional information during the period to determine if a waiver should be granted.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.8(231B,231C,231D) All other waiver requests.** Waiver requests relating to topics other than retention of a tenant in a program shall be filed in accordance with 481—Chapter 6.

[ARC 8174B, IAB 9/23/09, effective 1/1/10]

**481—67.9(231B,231C,231D) Staffing.**

**67.9(1) *Number of staff.*** A sufficient number of trained staff shall be available at all times to fully meet tenants' identified needs.

**67.9(2) *Emergency procedures.*** All program staff shall be able to implement the accident, fire safety, and emergency procedures.

**67.9(3) *Training documentation.*** The program shall have training records and staffing schedules on file and shall maintain documentation of training received by program staff, including training of certified and noncertified staff on nurse-delegated procedures.

**67.9(4) *Nurse delegation procedures.*** The program's registered nurse shall ensure certified and noncertified staff are competent to meet the individual needs of tenants. Nurse delegation shall, at a minimum, include the following:

*a.* The program's newly hired registered nurse shall within 60 days of beginning employment as the program's registered nurse document a review to ensure that staff are sufficiently trained and competent in all tasks that are assigned or delegated.

*b.* Within 30 days of beginning employment, all program staff shall receive training by the program's registered nurse(s).

c. Training for noncertified staff shall include, at a minimum, the provision of activities of daily living and instrumental activities of daily living.

d. Certified and noncertified staff shall receive training regarding service plan tasks (e.g., wound care, pain management, rehabilitation needs and hospice care) in accordance with medical or nursing directives and the acuity of the tenants' health, cognitive or functional status.

e. The program's registered nurse(s) shall provide direct or indirect supervision of all certified and noncertified staff as necessary in the professional judgment of the program's registered nurse and in accordance with the needs of the tenants and certified and noncertified staff.

f. Services shall be provided to tenants in accordance with the training provided.

g. The program shall have in place a system by which certified or noncertified staff communicate in writing occurrences that differ from the tenant's normal health, functional and cognitive status. The program's registered nurse or designee shall train certified and noncertified staff on reporting to the program's registered nurse or designee and documenting occurrences that differ from the tenant's normal health, functional and cognitive status. The written communication required by this paragraph shall be retained by the program for a period of not less than three years, and shall be accessible to the department upon request.

h. In the absence of the program's registered nurse due to vacation or other temporary circumstances, the nurse assuming the duties of the program's registered nurse shall have access to staff training in relation to tenant needs.

**67.9(5) Prohibited services.** A program staff member shall not be designated as attorney-in-fact, guardian, conservator, or representative payee for a tenant unless the program staff member is related to the tenant by blood, marriage, or adoption.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 0961C, IAB 8/21/13, effective 9/25/13; ARC 0963C, IAB 8/21/13, effective 9/25/13]

#### **481—67.10(17A,231B,231C,231D) Monitoring.**

**67.10(1) Frequency of monitoring.** The department shall monitor a certified program at least once during the program's certification period.

**67.10(2) Accessibility of records and program areas.** All records and areas of the program deemed necessary to determine compliance with the applicable requirements shall be accessible to the department for purposes of monitoring.

**67.10(3) Standard for determining whether a regulatory insufficiency exists.** The department shall use a preponderance-of-the-evidence standard when determining whether a regulatory insufficiency exists. A preponderance-of-the-evidence standard does not require that the monitor shall have personally witnessed the alleged violation.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

#### **481—67.11(231B,231C,231D) Complaint and program-reported incident report investigation procedure.**

**67.11(1) Complaints.** The process for filing a complaint is as follows:

a. Any person with concerns regarding the operation or service delivery of a program may file a complaint with the Department of Inspections and Appeals, Complaints Unit, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083; by use of the complaint hotline, 1-877-686-0027; by facsimile sent to (515)281-7106; or through the Web site address: [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do).

b. When the nature of the complaint is outside the department's authority, the department shall forward the complaint or refer the complainant, if known, to the appropriate investigatory entity.

c. The complainant shall include as much of the following information as possible in the complaint: the complainant's name, address and telephone number; the complainant's relationship to the program or tenant; and the reason for the complaint. The complainant's name shall be confidential information and shall not be released by the department. The department shall act on anonymous complaints unless the department determines that the complaint is intended to harass the program. If

the department, upon preliminary review, determines that the complaint is intended as harassment or is without reasonable basis, the department may dismiss the complaint.

**67.11(2) *Program-reported incident reports.*** When the program is required pursuant to applicable requirements to report an incident, the program shall make the report to the department via:

- a. The Web-based reporting tool accessible from the following Internet site, [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do), under the “Complaints” tab;
- b. Mail by sending the complaint to the Department of Inspections and Appeals, Complaints Unit, Lucas State Office Building, Third Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0083;
- c. The complaint hotline, 1-877-686-0027; or
- d. Facsimile sent to (515)281-7106.

**67.11(3) *Time frames for investigation of complaints or program-reported incident reports.*** Upon receipt of a complaint or program-reported incident report made in accordance with this rule, the department shall conduct a preliminary review of the complaint or report to determine if a potential regulatory insufficiency has occurred. If a potential regulatory insufficiency exists, the department shall institute a monitoring of the program within 20 working days unless there is the possibility of immediate danger, in which case the department shall institute a monitoring of the program within 2 working days of receipt of the complaint or incident report.

**67.11(4) *Standard for determining whether a complaint is substantiated.*** The department shall apply a preponderance-of-the-evidence standard in determining whether or not a complaint or program-reported incident report is substantiated.

**67.11(5) *Notification of program and complainant.*** The department shall notify the program and, if known, the complainant of the final report regarding the complaint investigation.

**67.11(6) *Notification of accrediting entity.*** In addition, for any credible report of alleged improper or inappropriate conduct or conditions within an accredited program, the department shall notify the accrediting entity by the most expeditious means possible of any actions taken by the department with respect to certification enforcement.

**67.11(7) *Notification of complainant when complaint not investigated.*** The department shall notify the complainant, if known, if the department does not investigate a complaint. The reasons for not investigating the complaint shall be included in the notification.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.12(17A,231B,231D) Adult day services and elder group homes—preliminary report, plan of correction and request for reconsideration.** Rescinded ARC 1701C, IAB 10/29/14, effective 1/1/15.

**481—67.13(17A,231B,231C,231D,85GA,HF2365) Exit interview, final report, plan of correction.**

**67.13(1) *Exit interview.*** The department shall provide an exit interview in person or by telephone at the conclusion of a monitoring, during which the department shall inform the program’s representative of all issues and areas of concern related to insufficient practices. A second exit interview shall be provided if the department identifies additional issues or areas of concern. The program shall have 2 working days from the date of the exit interview to submit additional or rebuttal information to the department.

**67.13(2) *Final report.*** The department shall issue the final report of a monitoring within 10 working days after completion of the on-site monitoring or the receipt by the department of additional or rebuttal information, by personal service, electronically or by certified mail. The department shall issue a final report regarding a monitoring whether or not any regulatory insufficiency is found.

**67.13(3) *Plan of correction.*** Within 10 working days following receipt of the final report, the program shall submit a plan of correction to the department.

- a. *Contents of plan.* The plan of correction shall include:
  - (1) Elements detailing how the program will correct each regulatory insufficiency;
  - (2) The date by which the regulatory insufficiency will be corrected;
  - (3) What measures will be taken to ensure the problem does not recur;
  - (4) How the program plans to monitor performance to ensure compliance; and

(5) Any other required information.

The date by which the regulatory insufficiency will be corrected shall not exceed 30 days from receipt of the final report pursuant to subrule 67.13(2) without approval of the department.

*b. Review of plan.* The department shall review the plan of correction within 10 working days. The department may request additional information or suggest revisions to the plan.

**67.13(4) Monitoring revisit.** The department may conduct a monitoring revisit to ensure that the plan of correction has been implemented and the regulatory insufficiency has been corrected. The department may issue a regulatory insufficiency for failure to implement the plan of correction. A monitoring revisit by the department shall review the program prospectively from the date of the plan of correction to determine compliance.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15]

**481—67.14(17A,231B,231C,231D,85GA,HF2365) Response to final report.** Within 20 working days after the issuance of the final report and assessment of civil penalty, if any, the program shall respond in the following manner.

**67.14(1) If not contesting final report.** If the program does not desire to seek an informal conference or contest the final report and civil penalty, if assessed, the program shall remit to the department of inspections and appeals the amount of the civil penalty, if assessed. If a program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if the requirements of subrule 67.17(5) are met.

**67.14(2) If contesting the final report.** If the program desires to contest the final report and civil penalty, if assessed, the program shall notify the department of inspections and appeals in writing that it desires to contest the final report and civil penalty and shall do one of the following:

- a.* Request an informal conference with an independent reviewer pursuant to subrule 67.14(3); or
- b.* Request a contested case hearing in the manner provided by Iowa Code chapter 17A for contested cases.

**67.14(3) Informal conference.**

*a. Request for informal conference.* The request for an informal conference must be in writing and include the following:

- (1) Identification of the regulatory insufficiency(ies) being disputed;
- (2) The type of informal conference requested: face-to-face or telephone conference; and
- (3) A request for monitor's notes for the regulatory insufficiencies being disputed, if desired.

*b. Submission of documentation.* The program shall submit the following within 10 working days from the date of the program's written request for an informal conference:

- (1) The names of those who will be attending the informal conference, including legal counsel; and
- (2) Documentation supporting the program's position. The program must highlight or use some other means to identify written information pertinent to the disputed regulatory insufficiency(ies). Supporting documentation that is not submitted with the request for an informal conference will not be considered, except as otherwise permitted by the independent reviewer upon good cause shown. "Good cause" means substantial or adequate grounds for failing to submit documentation in a timely manner. In determining whether the program has shown good cause, the independent reviewer shall consider what circumstances kept the program from submitting the supporting documentation within the required time frame.

*c. Face-to-face or telephone conference.* A face-to-face or telephone conference, if requested, will be scheduled to occur within 10 working days of the receipt of the written request, all supporting documentation and the plan of correction required by subrule 67.13(3).

- (1) Failure to submit supporting documentation will not delay scheduling.
- (2) The conference will be scheduled for one hour. The program will informally present information and explanation concerning the contested regulatory insufficiency(ies). The department will have time to respond to the program's presentation. Due to the confidential nature of the conference, attendance may be limited.

(3) If additional information is requested by the independent reviewer during the informal conference, the program will have 2 working days to deliver the additional materials to the independent reviewer.

(4) When extenuating circumstances preclude a face-to-face conference, a telephone conference will be held or the program may be given one opportunity to reschedule the face-to-face conference.

*d. Results.* The results of the informal conference will generally be sent within 10 working days after the date of the informal conference, or within 10 working days after the receipt of additional information, if requested.

(1) The independent reviewer may affirm or may modify or dismiss the regulatory insufficiency and civil penalty. The independent reviewer shall state in writing the specific reasons for the affirmation, modification or dismissal of the regulatory insufficiency.

(2) The department will issue an amended (changes in factual content) or corrected (changes in typographical/data errors) final report if changes result from the informal conference.

(3) The program must submit to the department a new plan of correction for the amended or corrected report within 10 calendar days from the date of the letter conveying the results of the conference.

(4) If the informal conference results in dismissal of a regulatory insufficiency for which a civil penalty was assessed, the corresponding civil penalty will be rescinded.

**67.14(4) Procedure after informal conference.** After the conclusion of an informal conference:

*a.* If the program does not desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, remit to the department of inspections and appeals the civil penalty, if assessed.

*b.* If the program does desire to further contest an affirmed or modified final report, the program shall, within 5 working days after receipt of the written decision of the independent reviewer, notify the department of inspections and appeals in writing that it desires to formally contest the final report.

**67.14(5) Contested case hearings.** Contested case hearings shall be conducted by the department's administrative hearings division pursuant to Iowa Code chapter 17A and 481—Chapter 10.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14; ARC 1701C, IAB 10/29/14, effective 1/1/15; ARC 2142C, IAB 9/16/15, effective 10/21/15]

#### **481—67.15(17A,231B,231C,231D) Denial, suspension or revocation of a certificate.**

**67.15(1) Notice and request for hearing.** The denial, suspension or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for such actions. A denial, suspension or revocation shall be effective 30 days after certified mailing or personal service of the notice, unless the applicant or certificate holder gives the department written notice requesting a hearing within the 30-day period. If a timely request for hearing is made, the notice shall be deemed suspended pending the outcome of the hearing, unless subrule 67.15(3) or 67.15(4) applies. If an enforcement action has been implemented immediately in accordance with subrule 67.15(3) or 67.15(4), the enforcement action remains in effect regardless of a request for hearing.

**67.15(2) Hearings.** Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 10.

**67.15(3) Immediate suspension of a certificate.** When the department finds that an imminent danger to the health or safety of tenants of a program exists which requires action on an emergency basis, the department may direct removal of all tenants from the program and suspend the certificate or require additional remedies to ensure the ongoing safety of the program's tenants prior to a hearing.

**67.15(4) Immediate imposition of enforcement action.** When the department finds that an imminent danger to the health or safety of tenants exists which requires action on an emergency basis, the department may immediately impose a conditional certificate and accompanying conditions upon the program in lieu of immediate suspension of the certificate and removal of the tenants from the program if the department finds that tenants' health and safety would still be protected. The program may request a hearing, but the immediate enforcement action remains in effect regardless of the request for hearing.

[ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.16(17A,231B,231C,231D) Conditional certification.**

**67.16(1) *Conditional certification.*** In lieu of denial, suspension or revocation of a certificate, the department may issue a conditional certificate for a period of up to one year. Notwithstanding subrule 67.15(4), a conditional certificate shall be issued only when regulatory insufficiencies pose no greater risk to tenant health or safety than the potential for causing minimal harm.

*a.* The department shall specify the reasons for the conditional certificate in the notice issuing the conditional certificate.

*b.* The department may place conditions upon a certificate, such as requiring additional training; restriction of the program from accepting additional tenants for a period of time; or any other action or combination of actions deemed appropriate by the department.

*c.* Failure by the program to adhere to the plan of correction or conditions placed on the certificate may result in suspension or revocation of the conditional certification and may result in further enforcement action as available under applicable requirements.

*d.* A program must be in substantial compliance with applicable requirements before the removal of a conditional certificate by the department. Prior to lifting a conditional certificate, the department may conduct a monitoring to verify substantial compliance. Once the program is in substantial compliance with applicable requirements, the department shall lift the conditional certificate.

**67.16(2) *Appeal of conditional certificate.*** A written request for hearing must be received by the department within 30 days after the mailing or service of notice. The conditional certificate shall not be suspended pending the hearing. Hearings shall be conducted by the administrative hearings division of the department of inspections and appeals pursuant to Iowa Code chapter 17A and 481—Chapter 10.  
[ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.17(17A,231B,231C,231D) Civil penalties.**

**67.17(1) *When civil penalties may be issued.*** Civil penalties may be issued when the director finds that any of the following has occurred:

*a.* A program that does not comply with applicable requirements and the noncompliance results in imminent danger or a substantial probability of resultant death or physical harm to a tenant may be assessed a civil penalty of not more than \$10,000.

*b.* A program that continues to fail or refuses to comply with applicable requirements within prescribed time frames established by the department or approved by the department in the program's plan of correction and the noncompliance has a direct relationship to the health, safety, or security of tenants may be assessed a civil penalty of not more than \$5,000.

*c.* A program that prevents, interferes with or attempts to impede in any way any duly authorized representative of the department in the lawful enforcement of applicable requirements may be assessed a civil penalty of not more than \$1,000.

*d.* A program that discriminates or retaliates in any way against a tenant, tenant's family, or an employee of the program who has initiated or participated in any proceeding authorized by Iowa Code chapter 231B, 231C or 231D and the corresponding administrative rules may be assessed a civil penalty of not more than \$5,000.

**67.17(2) *Duplicate civil penalties prohibited.*** The department shall not impose duplicate civil penalties on a program for the same set of facts and circumstances.

**67.17(3) *Factors in determining the amount of a civil penalty.*** The department shall consider the following factors when determining the amount of a civil penalty:

*a.* The frequency and length of time the regulatory insufficiency occurred (i.e., whether the regulatory insufficiency was an isolated or a widespread occurrence, practice, or condition);

*b.* The past history of the program as it relates to the nature of the regulatory insufficiency (the department shall not consider more than the current certification period and the immediately previous certification period);

*c.* The culpability of the program as it relates to the reasons the regulatory insufficiency occurred;

*d.* The extent of any harm to the tenants or the effect on the health, safety, or security of the tenants which resulted from the regulatory insufficiency;

- e.* The relationship of the regulatory insufficiency to any other types of regulatory insufficiencies which have occurred in the program;
- f.* The actions of the program after the occurrence of the regulatory insufficiency, including when corrective measures, if any, were implemented and whether the program notified the director as required;
- g.* The accuracy and extent of records kept by the program which relate to the regulatory insufficiency, and the availability of such records to the department;
- h.* The rights of tenants to make informed decisions;
- i.* Whether the program made a good-faith effort to address a high-risk tenant's specific needs and whether the evidence substantiates this effort.

**67.17(4) *Civil penalties due.*** The civil penalty shall be paid to the department within 30 days following the program's receipt of the final report and demand letter. The program may appeal in accordance with rule 481—67.12(17A,231B,231D) or 481—67.14(17A,231C,85GA,SF394). If the program appeals, the civil penalty shall be deemed suspended until the appeal is resolved.

**67.17(5) *Reduction of civil penalty amount by 35 percent.*** If an assisted living program has been assessed a civil penalty, the civil penalty shall be reduced by 35 percent if both of the following requirements are met:

- a.* The program does not request a formal hearing pursuant to rule 481—67.12(17A,231B,231D) or 481—67.14(17A,231C,85GA,SF394), or withdraws its request for formal hearing within 30 calendar days of the date that the civil penalty was assessed; and
- b.* The civil penalty is paid and payment is received by the department within 30 calendar days of receipt of the final report.

[ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.18(17A,231B,231C,231D) *Judicial review.*** Judicial review shall be conducted pursuant to Iowa Code chapter 17A and 481—Chapter 10.

[ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.19(135C,231B,231C,231D) *Criminal, dependent adult abuse, and child abuse record checks.***

**67.19(1) *Definitions.*** The following definitions apply for the purposes of this rule.

*"Background check"* or *"record check"* means criminal history, child abuse and dependent adult abuse record checks.

*"Direct services"* means services provided through person-to-person contact. "Direct services" excludes services provided by individuals such as building contractors, repair workers, or others who are in a program for a very limited purpose, who are not in the program on a regular basis, and who do not provide any treatment or services for residents, patients, tenants, or participants of the provider.

*"Employed in a program"* or *"employment within a program"* means all of the following, if the provider is regulated by the state or receives any federal or state funding:

1. An employee of an assisted living program certified under Iowa Code chapter 231C, if the employee provides direct services to consumers;
2. An employee of an elder group home certified under Iowa Code chapter 231B, if the employee provides direct services to consumers;
3. An employee of an adult day services program certified under Iowa Code chapter 231D, if the employee provides direct services to consumers.

*"Employee"* means any individual who is paid, either by the program or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors).

*"Evaluation"* means review by the department of human services to determine whether a founded child abuse, dependent adult abuse or criminal conviction warrants the person's being prohibited from employment in a program.

*"Indirect services"* means services provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance.

*"Program,"* for purposes of this rule, means all of the following, if the provider is regulated by the state or receives any federal or state funding:



1. An assisted living program certified under Iowa Code chapter 231C;
2. An elder group home certified under Iowa Code chapter 231B; and
3. An adult day services program certified under Iowa Code chapter 231D.

**67.19(2) Explanation of “crime.”** For purposes of this rule, the term “crime” does not include offenses under Iowa Code chapter 321 classified as simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction.

**67.19(3) Requirements for employer prior to employing an individual.** Prior to employment of a person in a program, the program shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state.

*a. Informing the prospective employee.* A program shall ask each person seeking employment by the program, “Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime other than a simple misdemeanor offense relating to motor vehicles and laws of the road under Iowa Code chapter 321 or equivalent provisions in this state or any other state?” The person shall also be informed that a background check will be conducted. The person shall indicate, by signature, that the person has been informed that the background check will be conducted.

*b. Conducting a background check.* The program may access the single contact repository (SING) to perform the required background check. If the SING is used, the program shall submit the person’s maiden name, if applicable, with the background check request. If SING is not used, the program must obtain a criminal history check from the department of public safety and a check of the child and dependent adult abuse registries from the department of human services.

*c. If a person considered for employment has been convicted of a crime.* If a person being considered for employment in a program has been convicted of a crime under a law of any state, the department of public safety shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person’s employment in the program.

*d. If a person considered for employment has a record of founded child abuse or dependent adult abuse.* If a department of human services child or dependent adult abuse record check shows that a person being considered for employment in a program has a record of founded child or dependent adult abuse, the department of human services shall notify the program that upon the request of the program the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the program.

*e. Employment pending evaluation.* The program may employ a person for not more than 60 calendar days pending the completion of the evaluation by the department of human services if all of the following apply. The 60-day period begins on the first day of the person’s employment.

(1) The person is being considered for employment other than employment involving the operation of a motor vehicle;

(2) The person does not have a record of founded child or dependent adult abuse;

(3) The person has been convicted of a crime that is a simple misdemeanor offense under Iowa Code section 123.47 or a first offense of operating a motor vehicle while intoxicated under Iowa Code section 321J.2, subsection 1; and

(4) The program has requested an evaluation to determine whether the crime warrants prohibition of the person’s employment.

**67.19(4) Validity of background check results.** The results of a background check conducted pursuant to this rule shall be valid for a period of 30 calendar days from the date the results of the background check are received by the program.

**67.19(5) Employment prohibition.** A person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a program unless an evaluation has been performed by the department of human services.

**67.19(6) Transfer of an employee to another program owned or operated by the same person.** If an employee transfers from one program to another program owned or operated by the same person,

without a lapse in employment, the program is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

**67.19(7) *Transfer of ownership of a program.*** If the ownership of a program is transferred, at the time of transfer the background check required by this rule shall be performed for each employee for whom there is no documentation that such background check has been performed. The program may continue to employ such employee pending the performance of the background check and any related evaluation.

**67.19(8) *Change of employment—person with criminal or abuse record—exception to record check evaluation requirements.*** A person with a criminal or abuse record who is or was employed by a certified program and is hired by another certified program shall be subject to the background check.

*a.* A reevaluation of the latest record check is not required, and the person may commence employment with the other certified program if the following requirements are met:

(1) The department of human services previously performed an evaluation concerning the person's criminal or abuse record and concluded the record did not warrant prohibition of the person's employment;

(2) The latest background check does not indicate a crime was committed or founded abuse record was entered subsequent to the prior evaluation;

(3) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed;

(4) Any restrictions placed on the person's employment in the previous evaluation by the department of human services and still applicable shall remain applicable in the person's subsequent employment; and

(5) The person subject to the background check has maintained a copy of the previous evaluation and provided it to the subsequent employer, or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, a current record check evaluation shall be performed.

*b.* For purposes of this subrule, a position is "substantially the same or has the same job responsibilities" if the position requires the same certification, licensure, or advanced training. For example, a licensed nurse has substantially the same or the same job responsibilities as a director of nursing; a certified nurse aide does not have substantially the same or the same job responsibilities as a licensed nurse.

*c.* The subsequent employer must maintain the previous evaluation in the employee's personnel file for verification of the exception to the requirement for a record check evaluation.

*d.* The subsequent employer may request a reevaluation of the background check and may employ the person while the reevaluation is being performed, even though an exemption under paragraph 67.19(8) "*a*" may be authorized.

**67.19(9) *Employee notification of criminal convictions or founded abuse after employment.*** If a person employed by an employer that is subject to this rule is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within 48 hours of the criminal conviction or entry of the record of founded child or dependent adult abuse.

*a.* The employer shall act to verify the information within seven calendar days of notification. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

*b.* If the information is verified, the program shall follow the requirements of paragraphs 67.19(3) "*c*" and "*d*."

*c.* The employer may continue to employ the person pending the performance of an evaluation by the department of human services.

d. A person who is required by this subrule to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor under Iowa Code section 135C.33.

e. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under this subrule.

**67.19(10)** *Program receipt of credible information that an employee has been convicted of a crime or founded for abuse.* If the program receives credible information, as determined by the program, from someone other than the employee, that the employee has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment, and the employee has not informed the employer of the information within the time required by subrule 67.19(9), the program shall take the following actions:

a. The program shall act to verify credible information within seven calendar days of receipt. "Verify," for purposes of this subrule, means to access the single contact repository (SING) to perform a background check, to request a criminal background check from the department of public safety, to request an abuse record check from the department of human services, to conduct an online search through the Iowa Courts Online Web site, or to contact the county clerk of court office and obtain a copy of relevant court documents.

b. If the information is verified, the program shall follow the requirements of paragraphs 67.19(3)"c" and "d."

**67.19(11)** *Proof of background checks for temporary employment agencies and contractors.* Proof of background checks may be kept in the files maintained by temporary employment agencies and contractors. Facilities may require temporary employment agencies and contractors to provide a copy of the result of the background checks. Copies of such results shall be made available to the department upon request.

This rule is intended to implement Iowa Code sections 231B.2(1), 231C.3(1), 231D.2(2), and 135C.33 and 2013 Iowa Acts, Senate File 347.

[ARC 0963C, IAB 8/21/13, effective 9/25/13; ARC 1547C, IAB 7/23/14, effective 8/27/14]

**481—67.20(17A,231C,231D) Emergency removal of tenants.** If the department determines that the health or safety of tenants is in jeopardy and the tenants need to be removed from the program, the department shall use the following procedures to ensure a safe and orderly transfer.

**67.20(1)** The department shall notify the department of human services, the tenant advocate, the appropriate area agency on aging, and other agencies as necessary and appropriate:

- a. To alert them to the need to transfer tenants from a program;
- b. To request assistance in identifying alternative programs or other appropriate settings; and
- c. To contact the tenants and their legal representatives or family members, if applicable, and others as appropriate, including health care professionals.

**67.20(2)** The department shall notify the program of the immediate need to transfer tenants and of any assistance available, in coordination with the appropriate parties under subrule 67.20(1).

**67.20(3)** The department, in conjunction with other agencies as necessary and appropriate, shall proceed with the transfer of tenants.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.21(231C) Nursing assistant work credit.**

**67.21(1)** A person who is certified as a nursing assistant, including a medication aide, and who is supervised by a registered nurse may submit information to the department to obtain credit toward maintaining certification for working in a program. A program may add an employee to the direct care worker registry by calling (515)281-4077 or by registering through the health facilities division Web site at [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do), under the "Documents" tab.

**67.21(2)** A program shall complete and submit to the department a direct care worker registry application for each certified nursing assistant who works in the program. A registered nurse employed by the program shall supervise the nursing assistant. The application may

be obtained by telephone at (515)281-4077 or via the health facilities division Web site at [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do), under the “Documents” tab.

**67.21(3)** A program shall complete and submit to the department a direct care worker registry quarterly employment report whenever a change in the employment of a certified nursing assistant occurs. The report form may be obtained by telephone at (515)281-4077 or via the health facilities division Web site at [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do), under the “Documents” tab.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.22(231B,231C,231D) Public or confidential information.**

**67.22(1) Public information.**

*a. Public disclosure of findings.* The program shall post a notice stating that copies of the final report resulting from a monitoring are available via the department’s Web site at [https://dia-hfd.iowa.gov/DIA\\_HFD/Home.do](https://dia-hfd.iowa.gov/DIA_HFD/Home.do). The program shall post the notice in a prominent location on the premises of the program. Copies shall also be available upon request from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083; telephone (515)281-6325.

*b. Open records.* The following records are open records available for inspection:

- (1) Certification applications, certification status, and accompanying materials;
- (2) Final findings of state monitorings, including a monitoring that results from a complaint or program-reported incident;
- (3) Reports from the state fire marshal;
- (4) Plans of correction submitted by a program;
- (5) Official notices of certification sanctions, including enforcement actions;
- (6) Findings of fact, conclusions of law, decisions and orders issued pursuant to rules 481—67.10(17A,231B,231C,231D), 481—67.12(17A,231B,231C,231D), and 481—67.13(17A,231B,231C,231D);

(7) Waivers, including the department’s approval and denial letter and any letter requesting the waiver.

**67.22(2) Confidential information.** Confidential information includes the following:

*a.* Information that does not comprise a final report resulting from a monitoring, complaint investigation, or program-reported incident investigation. Information which does not comprise a final report may be made public in a legal proceeding concerning a denial, suspension or revocation of certification;

*b.* Names of all complainants;

*c.* Names of tenants of a program, identifying medical information, copies of documentation appointing a legal representative, and the address of anyone other than an owner or operator; and

*d.* Social security numbers or employer identification numbers (EIN).

**67.22(3) Redaction of confidential information.** If a record normally open for inspection contains confidential information, the confidential information shall be redacted before the records are provided for inspection.

[ARC 8174B, IAB 9/23/09, effective 1/1/10; ARC 1055C, IAB 10/2/13, effective 1/1/14]

**481—67.23(231B,231C,231D) Training related to Alzheimer’s disease and similar forms of irreversible dementia.** Rescinded ARC 1547C, IAB 7/23/14, effective 8/27/14.

These rules are intended to implement Iowa Code chapters 231B, 231C as amended by 2013 Iowa Acts, Senate File 394, and 231D.

[Filed ARC 8174B (Notice ARC 7877B, IAB 6/17/09), IAB 9/23/09, effective 1/1/10]

[Filed ARC 0961C (Notice ARC 0809C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 0963C (Notice ARC 0808C, IAB 6/26/13), IAB 8/21/13, effective 9/25/13]

[Filed ARC 1050C (Notice ARC 0907C, IAB 8/7/13), IAB 10/2/13, effective 11/6/13]

[Filed ARC 1055C (Notice ARC 0941C, IAB 8/7/13), IAB 10/2/13, effective 1/1/14]

[Filed ARC 1547C (Notice ARC 1472C, IAB 5/28/14), IAB 7/23/14, effective 8/27/14]

[Filed ARC 1701C (Notice ARC 1616C, IAB 9/3/14), IAB 10/29/14, effective 1/1/15]

[Filed ARC 1994C (Notice ARC 1942C, IAB 4/1/15), IAB 5/27/15, effective 7/1/15]  
[Filed ARC 2142C (Notice ARC 2067C, IAB 7/22/15), IAB 9/16/15, effective 10/21/15]



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CHAPTER 2  
COMPLAINT INVESTIGATION AND RESOLUTION PROCEDURES

**497—2.1(23) Complaints.**

**2.1(1) Form.** A complaint shall be written and signed by the person filing the complaint on forms provided by the board. The complaint shall allege a violation of Iowa Code chapter 21 or 22; provide specific facts in support of the allegation, including the identification of persons and government entity involved in the alleged violation; and provide the specific relief sought.

**2.1(2) Board acceptance or dismissal.** Upon receipt of a written complaint alleging a violation of Iowa Code chapter 21 or 22, the board shall either:

*a.* Accept the complaint, following a review of the allegations on their face, having determined that the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit; or

*b.* Dismiss the complaint, following a review of the allegations on their face, having determined that the complaint is outside the board's jurisdiction, appears legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been disposed of on its merits by the board or a court.

**2.1(3) Delegation.** In order to expedite proceedings, the board may delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board. The board's staff may conduct an initial review of the complaint and obtain more information to assist in the decision to accept or dismiss the complaint.

**2.1(4) Notice.** If the complaint is accepted, the board shall notify the parties in writing. If the complaint is dismissed, the board shall notify the complainant in writing and explain its reasons for dismissal.

**2.1(5) Board review.** The board's review of a formal complaint for legal sufficiency is not a contested case proceeding and shall be made solely on the facts alleged in the complaint and the results of the initial review conducted by the board's staff.

This rule is intended to implement Iowa Code section 23.8.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2089C, IAB 8/5/15, effective 9/9/15]

**497—2.2(23) Investigations—board action.**

**2.2(1) Referral to staff.** Upon acceptance of a complaint, the board's staff shall work with the complainant and the subject of the complaint toward an informal, expeditious resolution. If the complaint is not resolved, the staff shall initiate an investigation to determine whether there is probable cause to believe a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred. Offers to settle a complaint during the informal resolution process or as part of a settlement negotiation under rule 497—2.4(23) shall not be presented either to the board or admitted in a subsequent contested case proceeding as evidence that a violation of Iowa Code chapter 21 or 22 or rules of the board has occurred.

**2.2(2) Subpoenas.** Investigations may include the issuance and enforcement of investigative subpoenas requiring the production of books, papers, records, electronic records and other real evidence, as well as requiring the attendance and testimony of witnesses.

**2.2(3) Completion.** Upon completion of an investigation, staff shall make a report to the board and may provide a recommendation for board action.

**2.2(4) Board action.** Upon receipt and review of the staff investigative report and any recommendations, the board may:

*a.* Redirect the matter for further investigation;

*b.* Dismiss the matter for lack of probable cause to believe a violation has occurred;

*c.* Make a determination that probable cause exists to believe a violation has occurred, but, as an exercise of administrative discretion, dismiss the matter; or

*d.* Make a determination that probable cause exists to believe a violation has occurred, designate a prosecutor and direct the issuance of a statement of charges to initiate a contested case proceeding.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2139C, IAB 9/16/15, effective 10/21/15]

**497—2.3(23) Civil penalties and other appropriate remedies.** If it is determined after a contested case proceeding that a violation of statute or rule under the board's jurisdiction has occurred, the board may impose any of the remedies set out in Iowa Code section 23.6(8) or 23.10(3) "b. "

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2139C, IAB 9/16/15, effective 10/21/15]

**497—2.4(23) Settlements.** Settlements may be negotiated during an investigation or after the commencement of a contested case proceeding. Negotiations shall be conducted between the prosecutor and a governmental body or government official against whom a complaint has been filed.

**2.4(1) Board member participation.** The board may designate the chairperson or another board member to participate in settlement negotiations after initiation of a contested case.

**2.4(2) Ex parte communications.** If settlement negotiations are undertaken after a contested case has been initiated, the respondent may be required to waive any objections to ex parte communications concerning settlement discussions.

**2.4(3) Approval.** A settlement shall be in writing and is subject to approval of a majority of the board. If the board declines to approve a proposed settlement, the settlement shall be of no force or effect.

[ARC 0741C, IAB 5/15/13, effective 7/1/13; ARC 2139C, IAB 9/16/15, effective 10/21/15]

These rules are intended to implement Iowa Code chapter 23.

[Filed ARC 0741C (Notice ARC 0644C, IAB 3/20/13), IAB 5/15/13, effective 7/1/13]

[Filed ARC 2089C (Notice ARC 2011C, IAB 5/27/15), IAB 8/5/15, effective 9/9/15]

[Filed ARC 2139C (Notice ARC 2040C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

CHAPTER 9  
WAIVERS OR VARIANCES FROM ADMINISTRATIVE RULES

**497—9.1(17A) Definition.** For purposes of this chapter, a “waiver” or “variance” means action by the board that suspends, in whole or in part, the requirements or provisions of a rule as applied to any identified person on the basis of the particular circumstances of that person. The term “waiver” shall include both a waiver and a variance, and the term “person” shall include any individual or entity subject to the board’s jurisdiction.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.2(17A) Scope of chapter.** This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the board in situations when no other more specifically applicable law or rule provides for waivers. To the extent another more specific provision of law or rule governs the issuance of a waiver, the more specific provision shall supersede this chapter with respect to any waiver process.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.3(17A) Applicability.** The board may grant a waiver from a rule only if the board has sole jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions or other provisions of law. The board may not waive requirements created or duties imposed by statute or court order.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.4(17A) Criteria for waiver.** In response to a petition completed pursuant to rule 497—9.6(17A), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any other person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or court order; and
4. Substantially equal protection of the public interest will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.5(17A) Filing of petition.** A petition for a waiver shall be submitted in writing to the Iowa Public Information Board, Wallace State Office Building, Third Floor, 502 East 9th Street, Des Moines, Iowa 50319. If the request relates to a pending contested case, a copy of the request shall also be filed in the contested case proceeding addressed to the board’s executive director at the above address.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.6(17A) Content of petition.** A petition for waiver shall include the following information where applicable and known to the petitioner:

1. The name, address and telephone number of the person for whom a waiver is being requested and the case number of any related contested cases, if applicable.
2. A description and citation of the specific rule from which waiver is requested.
3. The specific waiver requested, including the precise scope and duration.
4. The relevant facts the petitioner believes would justify a waiver under each of the four criteria described in rule 497—9.4(17A). This shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons the petitioner believes will justify a waiver.

5. A history of any contacts between the board and the petitioner within the past three years relating to the activity affected by the proposed waiver. This shall include any notices of violation whether resolved through administration resolution or a contested case proceeding within the past three years.

6. Any information known to the petitioner regarding the board's treatment of similar cases.

7. The name, address and telephone number of any public agency or political subdivision that also regulates the activity in question or that might be affected by the granting of the waiver.

8. The name, address and telephone number of any person or entity that would be adversely affected by the granting of the waiver.

9. The name, address and telephone number of any person with knowledge of facts relevant to the proposed waiver.

10. Signed releases authorizing the persons with knowledge regarding the request to furnish the board with information relevant to the proposed waiver.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.7(17A) Additional information.** Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and the board.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.8(17A) Notice.** The board shall acknowledge a petition upon receipt. The board shall ensure that, within 30 days of the receipt of the petition, notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve the notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.9(17A) Hearing procedures.** The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case proceedings shall apply to any petition for a waiver filed in a contested case. Those provisions shall otherwise apply to board proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.10(17A) Ruling.** An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains. The order shall include a statement of the relevant facts and reasons upon which the action is based and a description of the precise scope and duration of the waiver if one is issued.

**9.10(1) Board discretion.** The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board upon consideration of all relevant factors. The board shall evaluate each petition for a waiver based on the unique, individual circumstances set out in the petition.

**9.10(2) Burden of persuasion.** The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

**9.10(3) Narrowly tailored exception.** A waiver, if granted, shall provide the narrowest exception possible to the provisions of the rule.

**9.10(4) Administrative deadlines.** When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

**9.10(5) Conditions.** The board may place any condition on a waiver that the board finds desirable to protect the public interest.

**9.10(6) *Time period of waiver.*** A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for the waiver continue to exist.

**9.10(7) *Time for ruling.*** The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

**9.10(8) *When deemed denied.*** Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

**9.10(9) *Service of order.*** Within ten business days of its issuance, any order issued under these rules shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.11(17A) Public availability.** All orders granting or denying a waiver petition shall be indexed, filed and made available for public inspection as provided in Iowa Code section 17A.3.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.12(17A) Summary reports.** The board shall semiannually prepare a summary report identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule and a citation to the statutory provisions implemented by the rules. The report shall include a general summary of the reasons justifying the board's actions on waiver requests and, if practicable, shall detail the extent to which the granting of a waiver has affected the general applicability of the rule itself. Copies of this report shall be available for public inspection and shall be provided semiannually to the administrative rules coordinator and the administrative rules review committee.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.13(17A) Cancellation of waiver.** A waiver issued by the board pursuant to this chapter may be withdrawn, canceled or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. That the petitioner or the person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. That the alternative means of ensuring adequate protection of the public interest after issuance of the waiver order have been demonstrated to be insufficient; or
3. That the subject of the waiver order has failed to comply with all conditions contained in the order.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.14(17A) Defense.** After the board issues an order granting a waiver, the order is a defense for the person to whom the order pertains, within the terms and the specified facts indicated therein, in any proceeding in which the rule in question is sought to be invoked.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

**497—9.15(17A) Appeals.** Judicial review of a board decision to grant or deny a waiver petition shall be in accordance with Iowa Code chapter 17A.

[ARC 2138C, IAB 9/16/15, effective 10/21/15]

These rules are intended to implement Iowa Code chapter 17A.

[Filed ARC 2138C (Notice ARC 2039C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]





**PROFESSIONAL LICENSURE DIVISION[645]**

Created within the Department of Public Health[641] by 1986 Iowa Acts, chapter 1245.  
Prior to 7/29/87, for Chs. 20 to 22 see Health Department[470] Chs. 152 to 154.

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## CHAPTER 4 BOARD ADMINISTRATIVE PROCESSES

### **645—4.1(17A) Definitions.**

*“Board”* means the professional licensing board of any of the following: athletic training, barbering, behavioral science, chiropractic, cosmetology arts and sciences, dietetics, hearing aid specialists, massage therapy, mortuary science, nursing home administrators, optometry, physical and occupational therapy, physician assistants, podiatry, psychology, respiratory care, sign language interpreters and transliterators, social work, and speech pathology and audiology.

*“Board office”* means the office of the administrative staff of each professional licensing board.

*“Department”* means the department of public health.

*“Disciplinary proceeding”* means any proceeding under the authority of each board pursuant to which licensee discipline may be imposed.

*“License”* means a license to practice the specific practice governed by one of the boards defined in this chapter.

*“Licensee”* means a person licensed to practice the specific practice governed by one of the boards defined in this chapter.

*“Overpayment”* means payment in excess of the required fee. Overpayment of less than \$10 received by the board shall not be refunded.

[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—4.2(17A) Purpose of board.** The purpose of each professional licensing board is to administer and enforce the provisions of Iowa Code chapters 17A, 21, 147, 272C and the practice-specific provisions in Iowa Code chapters 148A, 148B, 148C, 149, 151, 152A, 152B, 152C, 152D, 154, 154A, 154B, 154C, 154D, 154E, 155, 156, 157 and 158 applicable to each board. The mission of each professional licensing board is to protect the public health, safety and welfare by licensing qualified individuals who provide services to consumers and by fair and consistent enforcement of the statutes and rules of each board. Responsibilities of each professional licensing board include, but are not limited to:

**4.2(1)** Licensing qualified applicants by examination, renewal, endorsement, and reciprocity.

**4.2(2)** Developing and administering a program of continuing education to ensure the continued competency of individuals licensed by the board.

**4.2(3)** Imposing discipline on licensees as provided by statute or rule.

### **645—4.3(17A,147,272C) Organization of board and proceedings.**

**4.3(1)** Each professional licensing board is composed of members appointed by the governor and confirmed by the senate as defined in Iowa Code chapter 147.

**4.3(2)** Each board shall elect a chairperson and vice chairperson from its membership at the first meeting after April 30 of each year.

**4.3(3)** Each board shall hold at least one meeting annually.

**4.3(4)** A majority of the members of each board shall constitute a quorum.

**4.3(5)** Board meetings shall be governed in accordance with Iowa Code chapter 21.

**4.3(6)** The professional licensure division shall furnish each board with the necessary facilities and employees to perform the duties required by this chapter and shall be reimbursed for all costs incurred from funds collected from licensure-related fees.

**4.3(7)** Each professional licensing board has the authority to:

*a.* Develop and implement continuing education rules to ensure the continued competency of individuals licensed by the board.

*b.* Establish fees.

*c.* Establish committees of the board, the members of which shall be appointed by the board chairperson and shall not constitute a quorum of the board. The board chairperson shall appoint committee chairpersons.

*d.* Hold a closed session if the board votes to do so in a public roll-call vote with an affirmative vote of at least two-thirds if the total board is present or a unanimous vote if fewer are present. The board will recognize the appropriate statute allowing for a closed session when voting to go into closed session. The board shall keep minutes of all discussion, persons present, and action occurring at a closed session and shall tape-record the proceedings. The records shall be stored securely in the board office and shall not be made available for public inspection.

*e.* Investigate alleged violations of statutes or rules that relate to the practice of licensees upon receipt of a complaint or upon the board's own initiation. The investigation will be based on information or evidence received by the board.

*f.* Initiate and impose licensee discipline.

*g.* Monitor licenses that are restricted by a board order.

*h.* Establish and register peer reviewers.

*i.* Refer complaints to one or more registered peer reviewers for investigation and review. The peer reviewers will review cases and recommend appropriate action. However, the referral of any matter shall not relieve the board of any of its duties and shall not divest the board of any authority or jurisdiction.

*j.* Perform any other functions authorized by a provision of law.

[ARC 7586B, IAB 2/25/09, effective 4/1/09; ARC 9768B, IAB 10/5/11, effective 11/9/11]

#### **645—4.4(17A) Official communications.**

**4.4(1)** All official communications, including submissions and requests, may be addressed to the specific professional licensing board, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**4.4(2)** Notice of change of address. Each licensee shall notify the board of a change of the licensee's current mailing address within 30 days after the change of address occurs.

**4.4(3)** Notice of change of name. Each licensee shall notify the board in writing of a change of name within 30 days after changing the name.

**645—4.5(17A) Office hours.** The board office is open for public business from 8 a.m. to 4:30 p.m., Monday through Friday of each week, except holidays.

**645—4.6(21) Public meetings.** Members of the public may be present during board meetings unless the board votes to hold a closed session. Dates and location of board meetings may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office.

**4.6(1)** At every regularly scheduled board meeting, time will be designated for public comment. No more than ten minutes will be allotted for public comment at any one time unless the chairperson indicates otherwise.

**4.6(2)** Persons who have not asked to address the board during the public comment period may raise their hands to be recognized by the chairperson. Acknowledgment and an opportunity to speak will be at the discretion of the chairperson.

**4.6(3)** The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

**4.6(4)** Cameras and recording devices may be used at open meetings, provided the cameras or recording devices do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding at the meeting may request the user to discontinue use of the camera or device.

**645—4.7(147) Licensure by reciprocal agreement.** The board may enter into a reciprocal agreement with the District of Columbia or any state, territory, province or foreign country with equal or similar requirements for licensure of the specific professional board. The applicant shall take the examination required by the board.



**645—4.8(147) Duplicate certificate or wallet card.**

**4.8(1)** A duplicate wallet card or duplicate certificate shall be required if the current wallet card or certificate is lost, stolen or destroyed. A duplicate wallet card or a duplicate certificate shall be issued only under such circumstances.

**4.8(2)** A duplicate wallet card or duplicate certificate shall be issued upon receipt of the completed application for duplicate license and payment of the fee as specified in 645—Chapter 5.

**4.8(3)** If the board receives a completed application for a duplicate license stating that the wallet card or certificate was not received within 60 days after being mailed by the board, no fee shall be required for issuing the duplicate wallet card or duplicate certificate.

**645—4.9(147) Reissued certificate or wallet card.** The board shall reissue a certificate or current wallet card upon receipt of a written request from the licensee, return of the original document and payment of the fee as specified in 645—Chapter 5.

**645—4.10(17A,147,272C) License denial.**

**4.10(1)** When the board denies an applicant licensure, the board shall notify the applicant of the denial in writing by certified mail, return receipt requested, or in the manner of service of an original notice, and shall cite the reasons for which the application was denied.

**4.10(2)** An applicant who has been denied licensure by the board may appeal the denial and request a hearing on the issues related to the licensure denial by serving a written notice of appeal and request for hearing upon the board by certified mail, return receipt requested, not more than 30 days following the date of mailing of the notification of licensure denial to the applicant. The request for hearing shall specifically describe the facts to be contested and determined at the hearing.

**4.10(3)** If an applicant who has been denied licensure by the board appeals the licensure denial and requests a hearing pursuant to this rule, the hearing and subsequent procedures shall be held pursuant to the process outlined in Iowa Code chapters 17A and 272C and 645—Chapter 11.

**645—4.11(272C) Audit of continuing education.** The board may select licensees for audit following license renewal.

**4.11(1)** Licensees shall provide information to the board for auditing purposes as follows:

*a.* The licensee shall provide an individual certificate of completion issued to the licensee or evidence of successful completion of the course from the course sponsor. These documents must contain the course date, title, contact hours, sponsor and licensee's name.

*b.* Information identified in paragraph 4.11(1) "a" must be submitted within 30 days after the date on the letter of notification of the audit. Extension of time may be granted on an individual basis.

**4.11(2)** For auditing purposes, all licensees must retain the information identified in paragraph 4.11(1) "a" for two years after the biennium has ended.

**4.11(3)** If the submitted materials are incomplete or unsatisfactory, the licensee may be given the opportunity to submit make-up credit to cover the deficit found through the audit. The deadline for receipt of the documentation for this make-up credit is 90 days from the date of mailing of the notice of deficit to the address of record at the board office. The license shall be re-audited following the next renewal period when make-up credit has been accepted.

**4.11(4)** Failure to notify the board of a current mailing address will not absolve the licensee from meeting the audit requirement.

[ARC 9171B, IAB 11/3/10, effective 12/8/10]

**645—4.12(272C,83GA,SF2325) Automatic exemption.**

**4.12(1)** A licensee, except a funeral director, shall be exempt from the continuing education requirement during the license biennium when the licensee:

*a.* Served honorably on active duty in the military service; or

*b.* Resided in another state or district having continuing education requirements for the profession and met all requirements of that state or district for practice therein; or

c. Was a government employee working in the licensee's specialty and assigned to duty outside the United States; or

d. Was absent from the state but engaged in active practice under circumstances which are approved by the board.

**4.12(2)** Automatic exemptions for a funeral director are identified in rule 645—102.5(83GA,SF2325).

[ARC 9239B, IAB 11/17/10, effective 12/22/10]

**645—4.13(272C) Grounds for disciplinary action.** The board may take formal disciplinary action on the following grounds:

1. Failure to cooperate with a board audit.
2. Failure to meet the continuing education requirement for licensure.
3. Falsification of information on the license renewal form.
4. Falsification of continuing education information.

**645—4.14(272C) Continuing education exemption for disability or illness.** A licensee who has had a physical or mental disability or illness during the license period may apply for an exemption. An exemption provides for an extension of time or exemption from some or all of the continuing education requirements. An applicant shall submit a completed application form approved by the board for an exemption. The application form is available upon request from the board office. The application requires the signature of a licensed health care professional who can attest to the existence of a disability or illness during the license period. If the application is from a licensee who is the primary caregiver for a relative who is ill or disabled and needs care from that primary caregiver, the physician shall verify the licensee's status as the primary caregiver. A licensee who applies for an exemption shall be notified of the decision regarding the application. A licensee who obtains approval shall retain a copy of the exemption to be presented to the board upon request.

**4.14(1)** The board may grant an extension of time to fulfill the continuing education requirement.

**4.14(2)** The board may grant an exemption from the continuing education requirement for any period of time not to exceed two calendar years. If the physical or mental disability or illness for which an extension or exemption was granted continues beyond the period initially approved by the board, the licensee must reapply for a continuance of the extension or exemption.

**4.14(3)** The board may, as a condition of any extension or exemption granted, require the licensee to make up a portion of the continuing education requirement in the manner determined by the board.

**645—4.15(147,272C) Order for physical, mental, or clinical competency examination or alcohol or drug screening.** A licensee who is licensed by the board is, as a condition of licensure, under a duty to submit to a physical, mental, or clinical competency examination, including alcohol or drug screening, within a time specified by order of the board. Such examination may be ordered upon a showing of probable cause and shall be at the licensee's expense.

**4.15(1) Content of order.** A board order for a physical, mental, or clinical competency examination shall include the following items:

- a. A description of the type of examination to which the licensee must submit.
- b. The name and address of the examiner or of the evaluation or treatment facility that the board has identified to perform the examination on the licensee.
- c. The time period in which the licensee must schedule the required examination.
- d. The amount of time the licensee has to complete the examination.
- e. A requirement that the licensee sign necessary releases for the board to communicate with the examiner or the evaluation or treatment facility.
- f. A requirement that the licensee cause a report of the examination results to be provided to the board within a specified period of time.
- g. A requirement that the licensee communicate with the board regarding the status of the examination.

*h.* A concise statement of the facts relied on by the board to order the evaluation.

**4.15(2) *Alternatives.*** Following issuance of the examination order, the licensee may request additional time to schedule or complete the examination or may request that the board approve an alternative examiner or treatment facility. The board in its sole discretion shall determine whether to grant such a request.

**4.15(3) *Objection to order.*** A licensee who is the subject of a board order and who objects to the order may file a request for hearing. The request for hearing must be filed within 30 days of the date of the examination order, and the request for hearing shall specifically identify the factual and legal issues upon which the licensee bases the objection. A licensee who fails to timely file a request for hearing to object to an examination order waives any future objection to the examination order in the event formal disciplinary charges are filed for failure to comply with the examination order or on any other grounds. The hearing shall be considered a contested case proceeding and shall be governed by the provisions of 645—Chapter 11. On judicial review of a board decision in a contested case involving an objection to an examination order, the case will be captioned in the name of Jane Doe or John Doe to maintain the licensee's confidentiality.

**4.15(4) *Closed hearing.*** Any hearing on an objection to the examination order shall be closed pursuant to Iowa Code section 272C.6(1).

**4.15(5) *Order and reports confidential.*** An examination order, and any subsequent examination reports issued in the course of a board investigation, are confidential investigative information pursuant to Iowa Code section 272C.6(4). However, all investigative information regarding the examination order shall be provided to the licensee in the event the licensee files an objection, under subrule 4.15(3), in order to allow the licensee an opportunity to prepare for hearing.

**4.15(6) *Admissibility.*** In the event the licensee submits to evaluation and subsequent proceedings are held before the board, all objections shall be waived as to the admissibility of the examining physicians' or health care providers' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against the licensee in any proceeding other than one relating to licensee discipline by the board.

**4.15(7) *Failure to submit.*** Failure of a licensee to submit to a board-ordered physical, mental, or clinical competency examination or to submit to alcohol or drug screening constitutes a violation of the rules of the board and is grounds for disciplinary action.

[ARC 7586B, IAB 2/25/09, effective 4/1/09]

**645—4.16(252J,261,272D) Noncompliance rules regarding child support, loan repayment and nonpayment of state debt.**

**4.16(1) *Child support noncompliance.*** The board hereby adopts by reference 641—Chapter 192, "Child Support Noncompliance," Iowa Administrative Code.

**4.16(2) *Noncompliance of loan repayment.*** The board hereby adopts by reference 641—Chapter 195, "Student Loan Default/Noncompliance with Agreement for Payment of Obligation," Iowa Administrative Code.

**4.16(3) *Nonpayment of state debt.*** The board hereby adopts by reference 641—Chapter 194, "Nonpayment of State Debt," Iowa Administrative Code.

[ARC 8706B, IAB 4/21/10, effective 5/26/10]

These rules are intended to implement Iowa Code chapters 17A, 21, 147, 252J, 261, 272C and 272D.

[Filed 3/19/08, Notice 11/21/07—published 4/9/08, effective 5/14/08]

[Filed ARC 7586B (Notice ARC 7165B, IAB 9/24/08), IAB 2/25/09, effective 4/1/09]

[Filed ARC 8706B (Notice ARC 8334B, IAB 12/2/09), IAB 4/21/10, effective 5/26/10]

[Filed ARC 9171B (Notice ARC 8784B, IAB 6/2/10), IAB 11/3/10, effective 12/8/10]

[Filed ARC 9239B (Notice ARC 8927B, IAB 7/14/10), IAB 11/17/10, effective 12/22/10]

[Filed ARC 9768B (Notice ARC 9459B, IAB 4/20/11), IAB 10/5/11, effective 11/9/11]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]



## CHAPTER 5 FEES

### **645—5.1(147,152D) Athletic training license fees.** All fees are nonrefundable.

- 5.1(1) License fee for license to practice athletic training is \$120.
  - 5.1(2) Temporary license fee for license to practice athletic training is \$120.
  - 5.1(3) Biennial license renewal fee for each biennium is \$120.
  - 5.1(4) Late fee for failure to renew before expiration is \$60.
  - 5.1(5) Reactivation fee is \$180.
  - 5.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.
  - 5.1(7) Verification of license fee is \$20.
  - 5.1(8) Returned check fee is \$25.
  - 5.1(9) Disciplinary hearing fee is a maximum of \$75.
- This rule is intended to implement Iowa Code chapters 17A, 147, 152D and 272C.

### **645—5.2(147,158) Barbering license fees.** All fees are nonrefundable.

- 5.2(1) License fee for an initial license to practice barbering, license by endorsement, license by reciprocity or an instructor's license is \$60.
  - 5.2(2) Biennial renewal fee for a barber license or barber instructor license is \$60.
  - 5.2(3) Temporary permit fee is \$12.
  - 5.2(4) Practical examination fee is \$75.
  - 5.2(5) Demonstrator permit fee is \$45 for the first day and \$12 for each day thereafter for which the permit is valid.
  - 5.2(6) Barber school license fee is \$600.
  - 5.2(7) Barber school annual renewal fee is \$300.
  - 5.2(8) Barbershop license fee is \$72.
  - 5.2(9) Biennial renewal fee for a barbershop license is \$72.
  - 5.2(10) Late fee for failure to renew before expiration is \$60.
  - 5.2(11) Reactivation fee for a barber license is \$120.
  - 5.2(12) Reactivation fee for a barbershop license is \$132.
  - 5.2(13) Reactivation fee for a barber school license is \$360.
  - 5.2(14) Duplicate or reissued license certificate or wallet card fee is \$20.
  - 5.2(15) Verification of license fee is \$20.
  - 5.2(16) Returned check fee is \$25.
  - 5.2(17) Disciplinary hearing fee is a maximum of \$75.
- This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 158.

[ARC 8349B, IAB 12/2/09, effective 1/6/10]

### **645—5.3(147,154D) Behavioral science license fees.** All fees are nonrefundable.

- 5.3(1) License fee for license to practice marital and family therapy or mental health counseling is \$120.
- 5.3(2) Temporary license fee for license to practice marital and family therapy or mental health counseling is \$120.
- 5.3(3) Biennial license renewal fee for each biennium is \$120.
- 5.3(4) Late fee for failure to renew before expiration is \$60.
- 5.3(5) Reactivation fee is \$180.
- 5.3(6) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.3(7) Verification of license fee is \$20.
- 5.3(8) Returned check fee is \$25.
- 5.3(9) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 154D and 272C.

[ARC 8152B, IAB 9/23/09, effective 10/28/09]

**645—5.4(151) Chiropractic license fees.** All fees are nonrefundable.

- 5.4(1) License fee for license to practice chiropractic is \$270.
  - 5.4(2) Fee for issuance of annual temporary certificate is \$120.
  - 5.4(3) Biennial license renewal fee is \$120.
  - 5.4(4) Late fee for failure to renew before the expiration date is \$60.
  - 5.4(5) Reactivation fee is \$180.
  - 5.4(6) Duplicate or reissued license certificate or wallet card fee is \$20.
  - 5.4(7) Fee for verification of license is \$20.
  - 5.4(8) Returned check fee is \$25.
  - 5.4(9) Disciplinary hearing fee is a maximum of \$75.
- This rule is intended to implement Iowa Code chapters 17A, 151 and 272C.

**645—5.5(147,157) Cosmetology arts and sciences license fees.** All fees are nonrefundable.

- 5.5(1) License fee for license to practice cosmetology arts and sciences, license by endorsement, license by reciprocity, or an instructor's license is \$60.
- 5.5(2) Biennial license renewal fee for each license for each biennium is \$60.
- 5.5(3) Late fee for failure to renew before expiration is \$60.
- 5.5(4) Reactivation fee for applicants licensed to practice cosmetology is \$120; for salons, \$144; and for schools, \$330.
- 5.5(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.5(6) Fee for verification of license is \$20.
- 5.5(7) Returned check fee is \$25.
- 5.5(8) Disciplinary hearing fee is a maximum of \$75.
- 5.5(9) Fee for license to conduct a school teaching cosmetology arts and sciences is \$600.
- 5.5(10) Fee for renewal of a school license is \$270 annually.
- 5.5(11) Salon license fee is \$84.
- 5.5(12) Biennial license renewal fee for each salon license for each biennium is \$84.
- 5.5(13) Demonstrator and not-for-profit temporary permit fee is \$42 for the first day and \$12 for each day thereafter that the permit is valid.
- 5.5(14) An initial fee or a reactivation fee for certification to administer microdermabrasion or utilize a certified laser product or an intense pulsed light (IPL) device is \$25 for each type of procedure or certified laser product or IPL device.
- 5.5(15) An initial fee or a reactivation fee for certification of cosmetologists to administer chemical peels is \$25.

This rule is intended to implement Iowa Code section 147.80 and chapter 157.

**645—5.6(147,152A) Dietetics license fees.** All fees are nonrefundable.

- 5.6(1) License fee for license to practice dietetics, license by endorsement, or license by reciprocity is \$120.
- 5.6(2) Biennial license renewal fee for each biennium is \$120.
- 5.6(3) Late fee for failure to renew before expiration is \$60.
- 5.6(4) Reactivation fee is \$180.
- 5.6(5) Duplicate or reissued license certificate or wallet card fee is \$20.
- 5.6(6) Verification of license fee is \$20.
- 5.6(7) Returned check fee is \$25.
- 5.6(8) Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152A and 272C.

**645—5.7(147,154A) Hearing aid specialists license fees.** All fees are nonrefundable.

- 5.7(1) Application fee for a license to practice by examination, endorsement, or reciprocity is \$156.

**5.7(2)** Examination fee (check or money order made payable to the International Hearing Society) is \$95.

**5.7(3)** Renewal of license fee is \$60.

**5.7(4)** Temporary permit fee is \$42.

**5.7(5)** Late fee is \$60.

**5.7(6)** Reactivation fee is \$120.

**5.7(7)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.7(8)** Verification of license fee is \$20.

**5.7(9)** Returned check fee is \$25.

**5.7(10)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapter 154A.

[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—5.8(147) Massage therapy license fees.** All fees are nonrefundable.

**5.8(1)** License fee for license to practice massage therapy is \$120.

**5.8(2)** Biennial license renewal fee for each biennium is \$60.

**5.8(3)** Temporary license fee for up to one year is \$120.

**5.8(4)** Late fee for failure to renew before expiration is \$60.

**5.8(5)** Reactivation fee is \$120.

**5.8(6)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.8(7)** Verification of license fee is \$20.

**5.8(8)** Returned check fee is \$25.

**5.8(9)** Disciplinary hearing fee is a maximum of \$75.

**5.8(10)** Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

**645—5.9(147,156) Mortuary science license fees.** All fees are nonrefundable.

**5.9(1)** License fee for license to practice funeral directing is \$120.

**5.9(2)** Biennial funeral director's license renewal fee for each biennium is \$120.

**5.9(3)** Late fee for failure to renew before expiration is \$60.

**5.9(4)** Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

**5.9(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.9(6)** Verification of license fee is \$20.

**5.9(7)** Returned check fee is \$25.

**5.9(8)** Disciplinary hearing fee is a maximum of \$75.

**5.9(9)** Funeral establishment or cremation establishment fee is \$90.

**5.9(10)** Three-year renewal fee of funeral establishment or cremation establishment is \$90.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

**645—5.10(147,155) Nursing home administrators license fees.** All fees are nonrefundable.

**5.10(1)** License fee for license to practice nursing home administration is \$120.

**5.10(2)** Biennial license renewal fee for each license for each biennium is \$60.

**5.10(3)** Late fee for failure to renew before expiration is \$60.

**5.10(4)** Reactivation fee is \$120.

**5.10(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.10(6)** Verification of license fee is \$20.

**5.10(7)** Returned check fee is \$25.

**5.10(8)** Disciplinary hearing fee is a maximum of \$75.

**5.10(9)** Provisional license fee is \$120.

This rule is intended to implement Iowa Code section 147.80 and Iowa Code chapter 155.

**645—5.11(147,148B) Occupational therapy license fees.** All fees are nonrefundable.

**5.11(1)** License fee for an OT or OTA license to practice occupational therapy is \$120.

**5.11(2)** Biennial license renewal fee to practice occupational therapy is \$60.

**5.11(3)** Biennial license renewal fee for an occupational therapy assistant is \$60.

**5.11(4)** Late fee for failure to renew before expiration is \$60.

**5.11(5)** Reactivation fee is \$120.

**5.11(6)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.11(7)** Verification of license fee is \$20.

**5.11(8)** Returned check fee is \$25.

**5.11(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148B and 272C.

**645—5.12(147,154) Optometry license fees.** All fees are nonrefundable.

**5.12(1)** License fee for license to practice optometry, license by endorsement, or license by reciprocity is \$300.

**5.12(2)** Biennial license renewal fee for each biennium is \$144.

**5.12(3)** Late fee for failure to renew before expiration date is \$60.

**5.12(4)** Reactivation fee is \$204.

**5.12(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.12(6)** Verification of license fee is \$20.

**5.12(7)** Returned check fee is \$25.

**5.12(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code chapters 17A, 147, 154 and 272C.

**645—5.13(147,148A) Physical therapy license fees.** All fees are nonrefundable.

**5.13(1)** License fee for license to practice physical therapy or as a physical therapist assistant is \$120.

**5.13(2)** Biennial license renewal fee for a physical therapist is \$60.

**5.13(3)** Biennial license renewal fee for a physical therapist assistant is \$60.

**5.13(4)** Late fee for failure to renew before expiration is \$60.

**5.13(5)** Reactivation fee is \$120.

**5.13(6)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.13(7)** Verification of license fee is \$20.

**5.13(8)** Returned check fee is \$25.

**5.13(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148A and 272C.

**645—5.14(148C) Physician assistants license fees.** All fees are nonrefundable.

**5.14(1)** Application fee for a license is \$120.

**5.14(2)** Fee for a temporary license is \$120.

**5.14(3)** Renewal of license fee is \$120.

**5.14(4)** Late fee for failure to renew before expiration is \$60.

**5.14(5)** Reactivation fee is \$180.

**5.14(6)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.14(7)** Fee for verification of license is \$20.

**5.14(8)** Returned check fee is \$25.

**5.14(9)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 148C and 272C.

**645—5.15(147,148F,149) Podiatry license fees.** All fees are nonrefundable.

**5.15(1)** License fee for license to practice podiatry, license by endorsement, or license by reciprocity is \$400.

**5.15(2)** License fee for temporary license to practice podiatry is \$200.



**5.15(3)** The fee for a license to practice orthotics, prosthetics, or pedorthics received on or before July 1, 2015, shall be \$600. The fee for a license to practice orthotics, prosthetics, or pedorthics received after July 1, 2015, shall be \$400.

**5.15(4)** Biennial license renewal fee is \$400 for each biennium.

**5.15(5)** Reactivation fee is \$460.

**5.15(6)** Temporary license renewal fee is \$200.

**5.15(7)** Late fee for failure to renew before expiration is \$60.

**5.15(8)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.15(9)** Verification of license fee is \$20.

**5.15(10)** Returned check fee is \$25.

**5.15(11)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 148F, 149 and 272C.

[ARC 1192C, IAB 11/27/13, effective 1/1/14]

**645—5.16(147,154B) Psychology license fees.** All fees are nonrefundable.

**5.16(1)** License fee for license to practice psychology is \$120.

**5.16(2)** Biennial license renewal fee is \$170.

**5.16(3)** Late fee for failure to renew before expiration is \$60.

**5.16(4)** Reactivation fee is \$230.

**5.16(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.16(6)** Verification of license fee is \$20.

**5.16(7)** Returned check fee is \$25.

**5.16(8)** Disciplinary hearing fee is a maximum of \$75.

**5.16(9)** Processing fee for exemption to licensure is \$60.

**5.16(10)** Certification fee for a health service provider is \$60.

**5.16(11)** Biennial renewal fee for certification as a certified health service provider in psychology is \$60.

**5.16(12)** Reactivation fee for certification as a certified health service provider in psychology is \$60.

**5.16(13)** Provisional license fee is \$120.

**5.16(14)** Provisional license renewal fee is \$170.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154B and 272C and 2014 Iowa Acts, chapter 1043.

[ARC 1834C, IAB 1/21/15, effective 2/25/15]

**645—5.17(147,152B) Respiratory care license fees.** All fees are nonrefundable.

**5.17(1)** Initial or endorsement license fee to practice respiratory care is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

**5.17(2)** Biennial license renewal fee for each biennium is \$60.

**5.17(3)** Late fee for failure to renew before expiration is \$60.

**5.17(4)** Reactivation fee is \$120, plus the cost for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI) if the license has been on inactive status for two or more years.

**5.17(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.17(6)** Verification of license fee is \$20.

**5.17(7)** Returned check fee is \$25.

**5.17(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.8 and Iowa Code chapters 17A, 152B and 272C.

**645—5.18(147,154E) Sign language interpreters and transliterators license fees.** All fees are nonrefundable.

**5.18(1)** License fee for license to practice interpreting or transliterating is \$120.

**5.18(2)** License fee for temporary license to practice interpreting or transliterating is \$120.

**5.18(3)** Biennial license renewal fee for each biennium is \$120.

**5.18(4)** Late fee for failure to renew before expiration is \$60.

**5.18(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.18(6)** Verification of license fee is \$20.

**5.18(7)** Returned check fee is \$25.

**5.18(8)** Disciplinary hearing fee is a maximum of \$75.

**5.18(9)** Reactivation fee is \$180.

This rule is intended to implement Iowa Code chapters 17A, 147, 154E and 272C.

**645—5.19(147,154C) Social work license fees.** All fees are nonrefundable.

**5.19(1)** License fee for license to practice social work is \$120.

**5.19(2)** Biennial license renewal fee for a license at the bachelor's level is \$72; at the master's level, \$120; and independent level, \$144.

**5.19(3)** Late fee for failure to renew before expiration is \$60.

**5.19(4)** Reactivation fee for the bachelor's level is \$132; for the master's level, \$180; and independent level, \$204.

**5.19(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.19(6)** Verification of license fee is \$20.

**5.19(7)** Returned check fee is \$25.

**5.19(8)** Disciplinary hearing fee is a maximum of \$75.

This rule is intended to implement Iowa Code section 147.80 and chapters 17A, 154C and 272C.

**645—5.20(147) Speech pathology and audiology license fees.** All fees are nonrefundable.

**5.20(1)** License fee for license to practice speech pathology or audiology, temporary clinical license, license by endorsement, or license by reciprocity is \$120.

**5.20(2)** Biennial license renewal fee for each biennium is \$96.

**5.20(3)** Late fee for failure to renew before expiration is \$60.

**5.20(4)** Reactivation fee is \$156.

**5.20(5)** Duplicate or reissued license certificate or wallet card fee is \$20.

**5.20(6)** Verification of license fee is \$20.

**5.20(7)** Returned check fee is \$25.

**5.20(8)** Disciplinary hearing fee is a maximum of \$75.

**5.20(9)** Temporary clinical license renewal fee is \$60.

**5.20(10)** Temporary permit fee is \$30.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

[Filed 3/19/08, Notice 11/21/07—published 4/9/08, effective 5/14/08]

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[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

*HEARING AID SPECIALISTS*

CHAPTER 121	LICENSURE OF HEARING AID SPECIALISTS
CHAPTER 122	CONTINUING EDUCATION FOR HEARING AID SPECIALISTS
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## CHAPTER 121

## LICENSURE OF HEARING AID SPECIALISTS

[Prior to 5/29/02, see 645—120.2(154A) to 120.6(154A) and 120.10(154A)]

**645—121.1(154A) Definitions.** For purposes of these rules, the following definitions shall apply:

*“Active license”* means a license that is current and has not expired.

*“Board”* means the board of hearing aid specialists.

*“Department”* means the department of public health.

*“Dispense”* or *“sell”* means a transfer of title or of the right to use by lease, bailment, or any other means, but excludes a wholesale transaction with a distributor or specialist, and excludes the temporary, charitable loan or educational loan of a hearing aid without remuneration.

*“Grace period”* means the 30-day period following expiration of a license when the license is still considered to be active. In order to renew a license during the grace period, a licensee is required to pay a late fee.

*“Hearing aid specialist”* means any person engaged in the fitting, dispensing and the sale of hearing aids and providing hearing aid services or maintenance by means of procedures stipulated by Iowa Code chapter 154A or the board.

*“Inactive license”* means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

*“License”* means a license issued by the state to hearing aid specialists.

*“Licensee”* means any person licensed to practice as a hearing aid specialist in the state of Iowa.

*“Licensure by endorsement”* means the issuance of an Iowa license to practice as a hearing aid specialist to an applicant who is or has been licensed in another state.

*“National examination”* means the standardized licensing examination of the International Hearing Society (IHS) or its successor organization.

*“Reactivate”* or *“reactivation”* means the process as outlined in rule 645—121.14(17A,147,272C) by which an inactive license is restored to active status.

*“Reciprocal license”* means the issuance of an Iowa license to practice as a hearing aid specialist to an applicant who is currently licensed in another state that has a mutual agreement with the Iowa board of hearing aid specialists to license persons who have the same or similar qualifications to those required in Iowa.

*“Reinstatement”* means the process as outlined in 645—11.31(272C) by which a licensee who has had a license suspended or revoked or who has voluntarily surrendered a license may apply to have the license reinstated, with or without conditions. Once the license is reinstated, the licensee may apply for active status.

*“Temporary permit”* means a permit issued while the applicant is in training to become a licensed hearing aid specialist.

*“Trainee”* means the holder of a temporary permit.

[ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.2(154A) Temporary permits.**

**121.2(1)** An applicant shall send a completed application and fee to the board office. The application must be accompanied by a statement from the employer, which includes the following information:

- a. The type of supervision which shall be provided to the trainee;
- b. A list of the subjects to be covered;

- c. The books and other training materials to be used for training; and
- d. An outline of the training program to be followed in preparing the trainee for examination.

**121.2(2)** A temporary permit is valid for one year and shall not be renewable.

**121.2(3)** The board reserves the right to deny an application for a temporary permit or rescind a temporary permit once issued.

**121.2(4)** The licensed hearing aid specialist employing the holder of a temporary permit shall be responsible for the following:

- a. Training of the temporary permit holder;
- b. Evaluating the audiograms and determining which hearing aid and ear mold will best compensate for hearing loss of a particular person; and
- c. Notifying the board within 15 days of the termination of the holder of a temporary permit.
- d. Submitting a report on a board-approved form verifying completion of the supervision and training requirements in accordance with 121.2(1).

[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.3(154A) Supervision requirements.** The supervisor's report must provide assurance of completion of training pursuant to 121.2(1).

**121.3(1)** Supervision of temporary permit holders. The supervisor(s) shall:

- a. Have a current hearing aid specialist license that has been valid for the immediately preceding 24 months;
- b. Have two years of actual experience in testing, fitting, and dispensing of hearing aids;
- c. Supervise not more than three trainees with temporary permits at the same time;
- d. For the first 90 days, provide a minimum of 20 hours of direct supervision per week in the physical presence of the trainee;
- e. Provide direct supervision of the trainee before completion of the first 90 days for any client activity that would require dispensing of hearing aids, including evaluation, selection, fitting or selling of hearing aids; and
- f. Cosign all audiometric evaluations and contracts processed by the trainee for the duration of the temporary permit.
- g. Submit, on a board-approved form, a supervision report for trainees prior to taking the board-approved examination. A supervision report is required each time the temporary permit holder submits a request to take the examination.

**121.3(2)** A trainee with a temporary permit must notify the board in writing within ten days of an interruption of training due to loss of supervision. The trainee shall, within 30 days, obtain a replacement supervisor for continuance of the training period and shall obtain and submit to the board a statement signed by the replacement supervisor, which states that the training program will be maintained.

**121.3(3)** If a statement by the replacement supervisor is not submitted, the trainee shall revert to new trainee status.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.4(154A) Requirements for initial licensure.** The following criteria shall apply to licensure:

**121.4(1)** The applicant shall complete a board-approved application packet. Application forms may be obtained from the board's Web site (<http://www.idph.state.ia.us/licensure>) or directly from the board office. All applications shall be sent to Board of Hearing Aid Specialists, Professional Licensure Division, Fifth Floor, Lucas State Office Building, Des Moines, Iowa 50319-0075.

**121.4(2)** The applicant shall complete the application form according to the instructions contained in the application. If the application is not completed according to the instructions, the application will not be reviewed by the board.

**121.4(3)** Each application shall be accompanied by the application fee payable to the Board of Hearing Aid Specialists. The board shall also receive the examination fee payable to the International Hearing Society for any examination held prior to the implementation of the on-line examination.

**121.4(4)** Examination score results must be received from the International Hearing Society.

**121.4(5)** Each applicant must successfully pass the national examination.

**121.4(6)** Examination candidates who hold a temporary permit are required to submit a supervisory report in accordance with paragraph 121.3(1) “g.”

**121.4(7)** Licensees who were issued their licenses within six months prior to the renewal date shall not be required to renew their licenses until the renewal month two years later.

**121.4(8)** Incomplete applications that have been on file in the board office for more than two years shall be:

- a. Considered invalid and shall be destroyed; or
- b. Maintained upon written request of the candidate. The candidate is responsible for requesting that the file be maintained.

**121.4(9)** Notification of eligibility for licensure shall be sent to the licensee by the board.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.5(154A) Examination requirements.** The following criteria shall apply to the national standardized licensing examination:

**121.5(1)** Applicants must pass the national standardized licensing examination. The passing score is the score established by the International Hearing Society.

**121.5(2)** The applicant shall not take the examination more than three times. If the applicant fails a third examination, the applicant is required to submit a request to the board with a proposed course of study. The board will determine whether the request will be granted.

[ARC 1005C, IAB 9/4/13, effective 10/9/13]

**645—121.6(154A) Licensure by endorsement.** An applicant who has been a licensed hearing aid specialist under the laws of another jurisdiction shall file an application for licensure by endorsement with the board office. The board may receive by endorsement any applicant from the District of Columbia or another state, territory, province or foreign country who:

**121.6(1)** Submits to the board a completed application;

**121.6(2)** Pays the licensure fee;

**121.6(3)** Shows evidence of licensure requirements that are similar to those required in Iowa;

**121.6(4)** Provides verification of license(s) from every jurisdiction in which the applicant has been licensed, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification direct from the jurisdiction’s board office if the verification provides:

- a. Licensee’s name;
- b. Date of initial licensure;
- c. Current licensure status; and
- d. Any disciplinary action taken against the license.

**121.6(5)** Provides official verification of one of the following:

a. A passing score on the national examination. For the written ten-part examination, the passing score is 70 percent in each subject or 75 percent overall. The International Hearing Society establishes the passing score for the national standardized licensing examination;

b. A passing score on an examination that the board determines is equivalent to the national examination; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences; and

**121.6(6)** Provides evidence of:

a. Completing a minimum of 32 continuing education hours within the 24 months prior to application; or

b. Continuing education certificates that verify that the minimum hours of continuing education required by a state(s) in which the licensee is currently licensed have been met; or

c. Current certification from the National Board for Certification in Hearing Instrument Sciences.

[ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.7(154A) Licensure by reciprocal agreement.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—121.8(154A) Display of license.** Persons licensed as hearing aid specialists shall display their original licenses in a conspicuous public place at the primary site of practice.  
[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.9(154A) License renewal.**

**121.9(1)** The biennial license renewal period for a hearing aid specialist license shall begin on January 1 of each odd-numbered year and end on December 31 of the next even-numbered year. All licensees shall renew on a biennial basis. The licensee is responsible for renewing the license prior to its expiration.

**121.9(2)** A licensee seeking renewal shall:

*a.* Meet the continuing education requirements of rule 645—122.2(154A) and the mandatory reporting requirements of subrule 121.9(4). A licensee whose license was reactivated during the current renewal compliance period may use continuing education credit earned during the compliance period for the first renewal following reactivation; and

*b.* Submit the completed renewal application and renewal fee before the license expiration date.

An individual who was issued a license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

**121.9(3)** Late renewal. The license shall become late when the license has not been renewed by the expiration date on the wallet card. The licensee shall be assessed a late fee as specified in 645—subrule 125.1(5). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

**121.9(4)** Mandatory reporter training requirements.

*a.* A licensee who, in the scope of professional practice or in the licensee's employment responsibilities, examines, attends, counsels or treats children in Iowa shall indicate on the renewal application completion of two hours of training in child abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*b.* A licensee who, in the course of employment, examines, attends, counsels or treats adults in Iowa shall indicate on the renewal application completion of two hours of training in dependent adult abuse identification and reporting in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e."

*c.* A licensee who, in the scope of professional practice or in the course of employment, examines, attends, counsels or treats both adults and children in Iowa shall indicate on the renewal application completion of training in abuse identification and reporting for dependent adults and children in the previous five years or condition(s) for waiver of this requirement as identified in paragraph "e." Training may be completed through separate courses as identified in paragraphs "a" and "b" or in one combined two-hour course that includes curricula for identifying and reporting child abuse and dependent adult abuse. The course shall be a curriculum approved by the Iowa department of public health abuse education review panel.

*d.* The licensee shall maintain written documentation for five years after mandatory training as identified in paragraphs "a" to "c," including program date(s), content, duration, and proof of participation.

*e.* The requirement for mandatory training for identifying and reporting child and dependent adult abuse shall be suspended if the board determines that suspension is in the public interest or that a person at the time of license renewal:

(1) Is engaged in active duty in the military service of this state or the United States.

(2) Holds a current waiver by the board based on evidence of significant hardship in complying with training requirements, including an exemption of continuing education requirements or extension of time in which to fulfill requirements due to a physical or mental disability or illness as identified in 645—Chapter 122.

*f.* The board may select licensees for audit of compliance with the requirements in paragraphs "a" to "e."

**121.9(5)** Upon receiving the information required by this rule and the required fee, board staff shall administratively issue a two-year license and shall send the licensee a wallet card by regular mail. In the event the board receives adverse information on the renewal application, the board shall issue the renewal license but may refer the adverse information for further consideration or disciplinary investigation.

**121.9(6)** Inactive license. A licensee who fails to renew the license by the end of the grace period has an inactive license. A licensee whose license is inactive continues to hold the privilege of licensure in Iowa, but may not practice as a hearing aid specialist in Iowa until the license is reactivated. A licensee who practices as a hearing aid specialist in the state of Iowa with an inactive license may be subject to disciplinary action by the board, injunctive action pursuant to Iowa Code section 147.83, criminal sanctions pursuant to Iowa Code section 147.86, and other available legal remedies.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.10(272C) Exemptions for inactive practitioners.** Rescinded IAB 8/31/05, effective 10/5/05.

**645—121.11(272C) Lapsed licenses.** Rescinded IAB 8/31/05, effective 10/5/05.

**645—121.12(154A,147) Duplicate certificate or wallet card.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—121.13(272C) License denial.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—121.14(17A,147,272C) License reactivation.** To apply for reactivation of an inactive license, a licensee shall:

**121.14(1)** Submit a reactivation application on a form provided by the board.

**121.14(2)** Pay the reactivation fee that is due as specified in 645—subrule 125.1(6).

**121.14(3)** Provide verification of current competence to practice as a hearing aid specialist by satisfying one of the following criteria:

*a.* If the license has been on inactive status for five years or less, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 32 hours of continuing education within two years of application for reactivation.

*b.* If the license has been on inactive status for more than five years, an applicant must provide the following:

(1) Verification of the license(s) from every jurisdiction in which the applicant is or has been licensed and is or has been practicing during the time period the Iowa license was inactive, sent directly from the jurisdiction(s) to the board office. Web-based verification may be substituted for verification from a jurisdiction's board office if the verification includes:

1. Licensee's name;
2. Date of initial licensure;
3. Current licensure status; and
4. Any disciplinary action taken against the license; and

(2) Verification of completion of 64 hours of continuing education within two years of application for reactivation.

[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—121.15(17A,147,272C) License reinstatement.** A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with 645—11.31(272C) and must apply for and be granted reactivation of the license in accordance with 645—121.14(17A,147,272C) prior to practicing as a hearing aid specialist in this state. [ARC 2151C, IAB 9/16/15, effective 10/21/15]

These rules are intended to implement Iowa Code chapters 17A, 147, 154A and 272C.

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[Filed ARC 1005C (Notice ARC 0792C, IAB 6/12/13), IAB 9/4/13, effective 10/9/13]

[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

<sup>◇</sup> Two or more ARCs



CHAPTER 122  
CONTINUING EDUCATION FOR HEARING AID SPECIALISTS

**645—122.1(154A) Definitions.** For the purpose of these rules, the following definitions shall apply:

“*Active license*” means a license that is current and has not expired.

“*Approved program/activity*” means a continuing education program/activity meeting the standards set forth in these rules.

“*Audit*” means the selection of licensees for verification of satisfactory completion of continuing education requirements during a specified time period.

“*Board*” means the board of hearing aid specialists.

“*Continuing education*” means planned, organized learning acts acquired during initial licensure designed to maintain, improve, or expand a licensee’s knowledge and skills in order for the licensee to develop new knowledge and skills relevant to the enhancement of practice, education, or theory development to improve the safety and welfare of the public.

“*Hour of continuing education*” means at least 50 minutes spent by a licensee in actual attendance at and completion of an approved continuing education activity.

“*Inactive license*” means a license that has expired because it was not renewed by the end of the grace period. The category of “inactive license” may include licenses formerly known as lapsed, inactive, delinquent, closed, or retired.

“*Independent study*” means a subject/program/activity that a person pursues autonomously that meets standards for approval criteria in the rules.

“*License*” means license to practice.

“*Licensee*” means any person licensed to practice as a hearing aid specialist in the state of Iowa.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—122.2(154A) Continuing education requirements.**

**122.2(1)** The biennial continuing education compliance period shall extend for a two-year period beginning on January 1 of each odd-numbered year and ending on December 31 of the next even-numbered year. Each biennium, each person who is licensed to practice as a hearing aid specialist in this state shall be required to complete a minimum of 32 hours of continuing education approved by the board. For the 2011-2012 compliance period for license renewal on January 1, 2013, and every renewal biennium thereafter, a minimum of 2 hours shall be in the content areas of Iowa hearing aid specialist law and rules, or ethics.

**122.2(2)** Requirements for new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. The new licensee will be required to complete a minimum of 32 hours of continuing education per biennium for each subsequent license renewal.

**122.2(3)** Hours of continuing education credit may be obtained by attending and participating in a continuing education activity. These hours must be in accordance with these rules.

**122.2(4)** No hours of continuing education shall be carried over into the next biennium except as stated for the second renewal. A licensee whose license was reactivated during the current renewal compliance period may use continuing education earned during the compliance period for the first renewal following reactivation.

**122.2(5)** It is the responsibility of each licensee to finance the cost of continuing education.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—122.3(154A,272C) Standards.**

**122.3(1) General criteria.** A continuing education activity which meets all of the following criteria is appropriate for continuing education credit if the continuing education activity:

a. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee;

b. Pertains to subject matters which integrally relate to the practice of the profession;

c. Is conducted by individuals who have specialized education, training and experience by reason of which said individuals should be considered qualified concerning the subject matter of the program. At the time of audit, the board may request the qualifications of the presenters;

d. Fulfills stated program goals, objectives, or both; and

e. Provides proof of attendance to licensees in attendance including:

(1) Date, place, course title, presenter(s);

(2) Number of program contact hours; and

(3) Certificate of completion or evidence of successful completion of the course provided by the course sponsor.

**122.3(2) *Specific criteria.*** Continuing education hours of credit may be obtained by completing the following:

a. Academic coursework if the coursework is offered by an accredited postsecondary educational institution. The maximum number of continuing education hours of credit for academic coursework per biennium is 15 hours with:

1 academic semester hour = 15 continuing education hours; and

1 academic quarter hour = 10 continuing education hours.

b. A maximum of 8 hours of credit may be obtained by independent study. Independent study hours are subject to the requirements stated in the rules in this chapter and in 645—Chapter 4.

c. Attending programs, conferences, or business, technical, or professional seminars which enhance a licensee's ability to provide quality hearing health care services.

d. Mandatory reporter training, as specified in 645—subrule 121.9(4). Hours reported for credit shall not exceed the hours required for compliance.

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 1005C, IAB 9/4/13, effective 10/9/13]

**645—122.4(154A,272C) Audit of continuing education report.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—122.5(154A,272C) Automatic exemption.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—122.6(154A,272C) Continuing education exemption for disability or illness.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—122.7(154A,272C) Grounds for disciplinary action.** Rescinded IAB 1/14/09, effective 2/18/09.

**645—122.8(154A,272C) Continuing education waiver for inactive practitioners.** Rescinded IAB 8/31/05, effective 10/5/05.

**645—122.9(154A,272C) Continuing education exemption for disability or illness.** Rescinded IAB 8/31/05, effective 10/5/05.

**645—122.10(154A,272C) Reinstatement of inactive practitioners.** Rescinded IAB 8/31/05, effective 10/5/05.

**645—122.11(272C) Hearings.** Rescinded IAB 8/31/05, effective 10/5/05.

These rules are intended to implement Iowa Code section 272C.2 and chapter 154A.

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[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]

◊ Two or more ARCs



CHAPTER 123  
PRACTICE OF HEARING AID DISPENSING

**645—123.1(154A) Definitions.** For the purposes of these rules, the following definitions apply:

*“Health history”* means a series of questions pertaining to all of the following: client hearing needs and expectations; communication issues; otological conditions; medications; and previous amplification.

*“Hearing aid fitting”* means any of the following: the measurement of human hearing by any means for the purpose of selections, adaptations, and sales of hearing aids, and the instruction and counseling pertaining thereto, and demonstration of techniques in the use of hearing aids, and the making of earmold impressions as part of the fitting of hearing aids.

*“Sales receipt”* means a written record that is provided to a person who purchases a hearing aid. The sales receipt must be in compliance with these rules and be signed by the purchaser and the licensed hearing aid specialist. The requirements for the sales receipt may be found in rule 645—123.3(154A).

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—123.2(154A) Requirements prior to sale of a hearing aid.**

**123.2(1)** Except as otherwise stated in these rules, no hearing aid shall be sold to an individual 18 years of age or older unless the individual:

*a.* Provides a health history to a licensed hearing aid specialist who is responsible for reducing the history to written form;

*b.* Presents a physician statement verifying that a medical evaluation, preferably by a physician specializing in diseases of the ear, has been done within the previous six months and stating the individual’s hearing loss and that the individual may benefit from a hearing aid. In lieu of this requirement, the individual may verify in writing that the individual has been informed that it is in the individual’s best health interests to obtain a medical evaluation by a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician, and that the individual chooses to waive said evaluation; and

*c.* Is given a hearing examination that utilizes appropriate established procedures and instrumentation for the measurement of hearing and the fitting of hearing aids and that includes, but is not limited to, an assessment of the following: air conduction; bone conduction; masking capability; speech reception thresholds; speech discrimination; uncomfortable loudness levels (UCL) and most comfortable levels (MCL).

**123.2(2)** Any medical evaluation completed by a licensed physician in accordance with these rules requires all of the following prior to the sale of a hearing aid to an individual: receipt of the physician statement and clearance for amplification; and completion by the licensed hearing aid specialist of a current written health history and hearing examination that includes all of the procedures required in these rules, unless the physician order specifies otherwise. In the event an audiogram is provided by the physician, this testing requirement is waived. All records provided to the licensed hearing aid specialist shall be maintained in the individual’s records in accordance with the record-keeping requirements in these rules.

**123.2(3)** Whenever any of the following conditions are found to exist either from observations by the licensed hearing aid specialist or person holding a temporary permit or on the basis of information furnished by a prospective hearing aid user, the hearing aid specialist or person holding a temporary permit shall, prior to fitting and selling a hearing aid to any individual, suggest to that individual in writing that the individual’s best interests would be served if the individual would consult a licensed physician specializing in diseases of the ear, or if no such licensed physician is available in the community, then a duly licensed physician:

- a.* Visible congenital or traumatic deformity of the ear.
- b.* History of, or active drainage from the ear within the previous 90 days.
- c.* History of sudden or rapidly progressive hearing loss within the previous 90 days.
- d.* Acute or chronic dizziness.
- e.* Unilateral hearing loss of sudden or recent onset within the previous 90 days.

- f.* Significant air-bone gap (greater than or equal to 15dB ANSI 500, 1000 and 2000 Hz. average).
- g.* Obstruction of the ear canal by structures of undetermined origin, such as foreign bodies, impacted cerumen, redness, swelling, or tenderness from localized infections of the otherwise normal ear canal.

**123.2(4)** Testing shall not be required in cases in which replacement hearing aids of the same make or model are sold within one year of the original sale, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

**123.2(5)** Except as otherwise provided in these rules, for individuals younger than 18 years of age, all of the requirements stated in these rules are applicable. In addition, the following are required:

- a.* Written authorization of a parent or legal guardian consenting to the services covered in these rules, and
- b.* An original signature on all documents required by law or these rules to be signed, including but not limited to all sales transactions and receipts, required notifications, and warranty agreements.

**123.2(6)** For individuals 12 years of age or younger, all of the requirements stated in these rules are applicable. In addition, the parent or legal guardian must first present a written, signed recommendation for a hearing aid from a licensed physician specializing in otolaryngology. The recommendation must have been made within the preceding six months. In the event of a lost or damaged hearing aid, a replacement of an identical hearing aid may be provided within one year, unless a medical evaluation occurs during this period, which requires compliance with the requirements stated in 123.2(2).

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—123.3(154A) Requirements for sales receipt.** Upon sale of a hearing aid device, the licensee shall provide to the person a sales receipt, which shall include the following:

1. Licensee's signature.
2. Licensee's business address.
3. Licensee's license number.
4. Client signature and address.
5. Make, model, and serial number of the hearing aid furnished.
6. Statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, if that is the fact.
7. Full terms of sale, including:
  - The date of sale;
  - Specific warranty terms, including whether any extended warranty is available through the manufacturer;
  - Specific return policy; and
  - Whether any trial period is available.
8. The following statement in type no smaller than the largest used in the body copy portion of the receipt: "The purchaser has been advised that any examination or representation made by a licensed hearing aid specialist in connection with the fitting or selection and selling of this hearing aid is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice."

[ARC 9424B, IAB 3/9/11, effective 4/13/11; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—123.4(154A) Requirements for record keeping.** A licensee shall keep and maintain records in the licensee's office or place of business for a seven-year period.

**123.4(1)** The records for each person shall include:

- a.* A complete record of each test performed and the results of the test.
- b.* A copy of any written recommendations.
- c.* A copy of medical clearances or waivers.
- d.* A copy of the written sales receipt.
- e.* A copy of terms of sale, including any warranty.

*f.* A written record of any adjustments or services provided on the hearing aid device, including whether such services were provided under warranty or other agreement.

**123.4(2)** No less than 30 days prior to closure of a licensee's business, the licensee shall provide written notification to clients of the location at which records will be maintained for a period of no less than 30 days following closure and the procedure to obtain those records. The licensee may arrange the transfer of records to another licensee for the purpose of maintenance of the records, provided that all contractual agreements have been satisfied.

[ARC 9424B, IAB 3/9/11, effective 4/13/11]

These rules are intended to implement Iowa Code chapter 154A.

[Filed ARC 9424B (Notice ARC 9317B, IAB 12/29/10), IAB 3/9/11, effective 4/13/11]

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[Filed ARC 2151C (Notice ARC 2044C, IAB 6/24/15), IAB 9/16/15, effective 10/21/15]





CHAPTER 124  
DISCIPLINE FOR HEARING AID SPECIALISTS  
[Prior to 5/29/02, see 645—120.11(272C)]

**645—124.1(154A,272C) Definitions.**

“*Board*” means the board of hearing aid specialists.

“*Discipline*” means any sanction the board may impose upon licensees.

“*Licensee*” means a person licensed to practice as a hearing aid specialist in Iowa.

[ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—124.2(154A,272C) Grounds for discipline.** The board may impose any of the disciplinary sanctions provided in rule 645—124.3(154A,272C) when the board determines that the licensee is guilty of any of the following acts or offenses:

**124.2(1)** Failure to comply with the current Code of Ethics of the International Hearing Society. The board hereby adopts by reference the current Code of Ethics of the International Hearing Society, available at <http://www.ihsinfo.org>.

**124.2(2)** Fraud in procuring a license. Fraud in procuring a license includes, but is not limited to, the following:

- a. An intentional perversion of the truth in making application for a license to practice in this state;
- b. False representations of a material fact, whether by word or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application for a license in this state; or
- c. Attempting to file or filing with the board or the department of public health any false or forged diploma or certificate or affidavit or identification or qualification in making an application for a license in this state.

**124.2(3)** Professional incompetence. Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the scope of practice;
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other hearing aid specialists in the state of Iowa acting in the same or similar circumstances;
- c. A failure to exercise the degree of care which is ordinarily exercised by the average hearing aid specialist acting in the same or similar circumstances;
- d. Failure to conform to the minimal standard of acceptable and prevailing practice of licensed hearing aid specialists in this state.

**124.2(4)** Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of hearing aid dispensing or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

**124.2(5)** Advertising that hearing testing or hearing screening is for the purpose of detection or diagnosis of medical problems or medical screening for referral to a physician.

**124.2(6)** Failure to place all of the following in an advertisement relating to hearing aids:

- a. Hearing aid specialist’s name.
- b. Hearing aid specialist’s address of primary site of practice.
- c. Hearing aid specialist’s telephone number.

**124.2(7)** Practice outside the scope of the profession.

**124.2(8)** The use of untruthful or improbable statements in advertisements. The use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

**124.2(9)** Except in cases of selling replacement hearing aids of the same make or model within one year of the original sale, a hearing aid shall not be sold without adequate diagnostic testing and evaluation using established procedures to assess hearing needs as defined in 645—Chapter 123. Instruments shall be calibrated to current standards at least annually or more often if necessary. The distributor shall keep with the instruments a certificate indicating the date of calibration.

**124.2(10)** Habitual intoxication or addiction to the use of drugs.

*a.* The inability of a licensee to practice with reasonable skill and safety by reason of the excessive use of alcohol on a continuing basis.

*b.* The excessive use of drugs which may impair a licensee's ability to practice with reasonable skill or safety.

**124.2(11)** Obtaining, possessing, attempting to obtain or possess, or administering controlled substances without lawful authority.

**124.2(12)** Falsification of client records.

**124.2(13)** Acceptance of any fee by fraud or misrepresentation.

**124.2(14)** Misappropriation of funds.

**124.2(15)** Negligence by the licensee in the practice of the profession. Negligence by the licensee in the practice of the profession includes a failure to exercise due care, including improper delegation of duties or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

**124.2(16)** Conviction of a crime related to the profession or occupation of the licensee or the conviction of any crime that would affect the licensee's ability to practice within the profession, regardless of whether the judgment of conviction or sentence was deferred. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

**124.2(17)** Violation of a regulation, rule, or law of this state, another state, or the United States, which relates to the practice of hearing aid dispensing.

**124.2(18)** Revocation, suspension, or other disciplinary action taken by a licensing authority of this state, another state, territory or country; or failure of the licensee to report such action within 30 days of the final action by such licensing authority. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, such report shall be expunged from the records of the board.

**124.2(19)** Failure of a licensee or an applicant for licensure in this state to report any voluntary agreements restricting the individual's practice as a hearing aid specialist in another state, district, territory or country.

**124.2(20)** Failure to notify the board of a criminal conviction within 30 days of the action, regardless of the jurisdiction where it occurred.

**124.2(21)** Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

**124.2(22)** Engaging in any conduct that subverts or attempts to subvert a board investigation.

**124.2(23)** Failure to comply with a subpoena issued by the board or failure to cooperate with an investigation of the board.

**124.2(24)** Failure to respond within 30 days of receipt of communication from the board which was sent by registered or certified mail.

**124.2(25)** Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order.

**124.2(26)** Failure to pay costs assessed in any disciplinary action.

**124.2(27)** Submission of a false report of continuing education or failure to submit the biennial report of continuing education.

**124.2(28)** Failure to report another licensee to the board for any violations listed in these rules, pursuant to Iowa Code section 272C.9.

**124.2(29)** Knowingly aiding, assisting, or advising a person to unlawfully practice as a hearing aid specialist.

**124.2(30)** Failure to report a change of name or address within 30 days after the occurrence.

**124.2(31)** Representing oneself as a licensed hearing aid specialist when one's license has been suspended or revoked, or when one's license is on inactive status.

**124.2(32)** Permitting another person to use the licensee's license for any purpose.

**124.2(33)** Permitting an unlicensed employee or person under the licensee's control to perform activities that require a license.

**124.2(34)** Unethical conduct. In accordance with Iowa Code section 147.55(3), behavior (i.e., acts, knowledge, and practices) which constitutes unethical conduct may include, but is not limited to, the following:

- a. Verbally or physically abusing a patient, client, or coworker.
- b. Improper sexual contact with or making suggestive, lewd, lascivious or improper remarks or advances to a patient, client or coworker.
- c. Betrayal of a professional confidence.
- d. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.
- e. Being adjudged mentally incompetent by a court of competent jurisdiction.

**124.2(35)** Repeated failure to comply with standard precautions for preventing transmission of infectious diseases as issued by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services.

**124.2(36)** Violation of the terms of an initial agreement with the impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with the impaired practitioner review committee.

[ARC 9424B, IAB 3/9/11, effective 4/13/11 (See Delay note at end of chapter); ARC 0032C, IAB 3/7/12, effective 4/11/12; ARC 1005C, IAB 9/4/13, effective 10/9/13; ARC 2151C, IAB 9/16/15, effective 10/21/15]

**645—124.3(154A,272C) Method of discipline.** The board has the authority to impose the following disciplinary sanctions:

1. Revocation of license.
2. Suspension of license until further order of the board or for a specific period.
3. Prohibit permanently, until further order of the board, or for a specific period the licensee's engaging in specified procedures, methods, or acts.
4. Probation.
5. Require additional education or training.
6. Require a reexamination.
7. Order a physical or mental evaluation, or order alcohol and drug screening within a time specified by the board.
8. Impose civil penalties not to exceed \$1000.
9. Issue a citation and warning.
10. Such other sanctions allowed by law as may be appropriate.

**645—124.4(272C) Discretion of board.** The following factors may be considered by the board in determining the nature and severity of the disciplinary sanction to be imposed:

1. The relative serious nature of the violation as it relates to ensuring a high standard of professional care for the citizens of this state;
2. The facts of the particular violation;
3. Any extenuating facts or other countervailing considerations;
4. The number of prior violations or complaints;
5. The seriousness of prior violations or complaints;
6. Whether remedial action has been taken; and
7. Such other factors as may reflect upon the competency, ethical standards, and professional conduct of the licensee.

**645—124.5(154A) Order for mental, physical, or clinical competency examination or alcohol or drug screening.** Rescinded IAB 1/14/09, effective 2/18/09.

These rules are intended to implement Iowa Code chapters 147, 154A and 272C.

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<sup>1</sup> April 13, 2011, effective date of 124.2(6) delayed 70 days by the Administrative Rules Review Committee at its meeting held April 11, 2011.

TITLE III  
LICENSING

## CHAPTER 10

## GENERAL REQUIREMENTS

[Prior to 5/18/88, Dental Examiners, Board of[320]]

**650—10.1(153) Licensed or registered personnel.** Persons engaged in the practice of dentistry in Iowa must be licensed by the board as a dentist, and persons performing services under Iowa Code section 153.15 must be licensed by the board as a dental hygienist. Persons engaged in the practice of dental assisting must be registered by the board pursuant to 650—Chapter 20.

This rule is intended to implement Iowa Code sections 147.2 and 153.17.

**650—10.2(147,153) Display of license, registration, permit, and renewal.** The license to practice dentistry or dental hygiene or the registration as a dental assistant and the current renewal must be prominently displayed by the licensee or registrant at each permanent practice location. A dentist who holds a permit to administer deep sedation/general anesthesia or conscious sedation, or a dental hygienist who holds a permit to administer local anesthesia, shall also prominently display the permit and the current renewal at each permanent practice location.

**10.2(1)** Additional certificates shall be obtained from the board whenever a licensee or registrant practices at more than one address.

**10.2(2)** Duplicate licenses, certificates of registration, or permits shall be issued by the board upon satisfactory proof of loss or destruction of the original license, certificate of registration, or permit.

This rule is intended to implement Iowa Code sections 147.7, 147.10 and 147.80(17).

**650—10.3(153) Authorized practice of a dental hygienist.**

**10.3(1)** “Practice of dental hygiene” as defined in Iowa Code section 153.15 means the performance of the following educational, therapeutic, preventive and diagnostic dental hygiene procedures which are delegated by and under the supervision of a dentist licensed pursuant to Iowa Code chapter 153.

*a.* Educational. Assessing the need for, planning, implementing, and evaluating oral health education programs for individual patients and community groups; conducting workshops and in-service training sessions on dental health for nurses, school personnel, institutional staff, community groups and other agencies providing consultation and technical assistance for promotional, preventive and educational services.

*b.* Therapeutic. Identifying and evaluating factors which indicate the need for and performing (1) oral prophylaxis, which includes supragingival and subgingival debridement of plaque, and detection and removal of calculus with instruments or any other devices; (2) periodontal scaling and root planing; (3) removing and polishing hardened excess restorative material; (4) administering local anesthesia with the proper permit; (5) administering nitrous oxide inhalation analgesia in accordance with 650—subrules 29.6(4) and 29.6(5); (6) applying or administering medicaments prescribed by a dentist, including chemotherapeutic agents and medicaments or therapies for the treatment of periodontal disease and caries; (7) removal of adhesives.

*c.* Preventive. Applying pit and fissure sealants and other medications or methods for caries and periodontal disease control; organizing and administering fluoride rinse or sealant programs.

*d.* Diagnostic. Reviewing medical and dental health histories; performing oral inspection; indexing dental and periodontal disease; preliminary charting of existing dental restorations and teeth; making occlusal registrations for mounting study casts; testing pulp vitality; analyzing dietary surveys.

*e.* The following services may only be delegated by a dentist to a dental hygienist: administration of local anesthesia, placement of sealants, and the removal of any plaque, stain, calculus, or hard natural or synthetic material except by toothbrush, floss, or rubber cup coronal polish.

**10.3(2)** All authorized services provided by a dental hygienist shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).

**10.3(3)** Under the general or public health supervision of a dentist, a dental hygienist may provide educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist. A dentist is not required to examine a patient prior to the provision of these dental hygiene services.

**10.3(4)** The administration of local anesthesia or nitrous oxide inhalation analgesia shall only be provided under the direct supervision of a dentist.

**10.3(5)** All other authorized services provided by a dental hygienist to a new patient shall be provided under the direct or public health supervision of a dentist. An examination by the dentist must take place during an initial visit by a new patient, except when hygiene services are provided under public health supervision.

**10.3(6)** Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.

**10.3(7)** General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.

**10.3(8)** Expanded function requirements.

*a. Supervision requirements.* A dental hygienist may only perform expanded function procedures which are delegated by and performed under the supervision of a dentist licensed pursuant to Iowa Code chapter 153. The taking of occlusal registrations for purposes other than mounting study casts may be performed under general supervision; all other expanded function procedures shall be performed under direct supervision.

*b. Expanded function training required.* A dental hygienist shall not perform any expanded function procedures listed in this chapter unless the dental hygienist has successfully met the education and training requirements and is in compliance with the requirements of this chapter.

*c. Education and training requirements.* All expanded function training must be prior-approved by the board. The supervising dentist and the dental hygienist shall be responsible for maintaining in each office of practice documentation of successful completion of the board-approved training.

(1) Expanded function training for Level 1 procedures shall be eligible for board approval if the training is offered through a program accredited by the Commission on Dental Accreditation of the American Dental Association (ADA) or another program, which may include on-the-job training offered by a dentist licensed in Iowa. Training must consist of the following:

1. An initial assessment to determine the base entry level of all participants in the program;
2. A didactic component;
3. A laboratory component, if necessary;
4. A clinical component, which may be obtained under the personal supervision of the participant's supervising dentist while the participant is concurrently enrolled in the training program; and
5. A postcourse competency assessment at the conclusion of the training program.

(2) Expanded function training for Level 2 procedures shall be eligible for board approval if the training is offered through the University of Iowa College of Dentistry or a program accredited by the Commission on Dental Accreditation of the American Dental Association.

**10.3(9)** Expanded function providers.

*a. Basic expanded function provider.* Dental hygienists who do not wish to become certified as a Level 1 or Level 2 provider may perform select Level 1 expanded function procedures provided they have met the education and training requirements for those procedures and are in compliance with the requirements of this chapter. A dentist may delegate to a dental hygienist only those Level 1 procedures for which the dental hygienist has received the required expanded function training.

*b. Certified Level 1 provider.* A dental hygienist must successfully complete training for all Level 1 expanded function procedures before becoming a certified Level 1 provider.

(1) A dentist may delegate any of the Level 1 expanded function procedures to a dental hygienist who is a certified Level 1 provider.

(2) Level 1 procedures include:

1. Taking occlusal registrations for purposes other than mounting study casts;
2. Placement and removal of gingival retraction;
3. Fabrication and removal of provisional restorations;
4. Applying cavity liners and bases and bonding systems for restorative purposes; and
5. Taking final impressions.

*c. Certified Level 2 provider.* A dental hygienist must become a certified Level 1 provider and successfully pass a board-approved entrance examination with a score of at least 75 percent before beginning training to become a certified Level 2 provider. A dental hygienist must successfully complete training for all Level 2 expanded function procedures before becoming a certified Level 2 provider.

(1) A dentist may delegate any of the Level 1 or Level 2 expanded function procedures to a dental hygienist who is a certified Level 2 provider.

(2) Level 2 procedures include:

1. Placement and shaping of amalgam following preparation of a tooth by a dentist;
2. Placement and shaping of composite following preparation of a tooth by a dentist;
3. Forming and placement of stainless steel crowns;
4. Taking records for the fabrication of dentures and partial dentures; and
5. Tissue conditioning (soft reline only).

These procedures refer to both primary and permanent teeth.

This rule is intended to implement Iowa Code section 153.15.

[ARC 2141C, IAB 9/16/15, effective 10/21/15]

**650—10.4(153) Unauthorized practice of a dental hygienist.** A dental hygienist who assists a dentist in practicing dentistry in any capacity other than as an employee or independent contractor supervised by a licensed dentist or who directly or indirectly procures a licensed dentist to act as nominal owner, proprietor, director, or supervisor of a practice as a guise or subterfuge to enable such dental hygienist to engage in the practice of dentistry or dental hygiene or who renders dental service(s) directly or indirectly on or for members of the public other than as an employee or independent contractor supervised by a licensed dentist shall be deemed to be practicing illegally.

**10.4(1)** The unauthorized practice of dental hygiene means allowing a person not licensed in dentistry or dental hygiene to perform dental hygiene services authorized in Iowa Code section 153.15 and rule 650—10.3(153).

**10.4(2)** The unauthorized practice of dental hygiene also means the performance of services by a dental hygienist that exceeds the scope of practice granted in Iowa Code section 153.15.

**10.4(3)** A dental hygienist shall not practice independent from the supervision of a dentist nor shall a dental hygienist establish or maintain an office or other workplace separate or independent from the office or other workplace in which the supervision of a dentist is provided.

This rule is intended to implement Iowa Code sections 147.10, 147.57 and 153.15.

**650—10.5(153) Public health supervision allowed.** A dentist who meets the requirements of this rule may provide public health supervision to a dental hygienist if the dentist has an active Iowa license and the services are provided in public health settings.

**10.5(1) Public health settings defined.** For the purposes of this rule, public health settings are limited to schools; Head Start programs; programs affiliated with the early childhood Iowa (ECI) initiative authorized by Iowa Code chapter 256I; child care centers (excluding home-based child care centers); federally qualified health centers; public health dental vans; free clinics; nonprofit community health centers; nursing facilities; and federal, state, or local public health programs.

**10.5(2) Public health supervision defined.** “Public health supervision” means all of the following:

*a.* The dentist authorizes and delegates the services provided by a dental hygienist to a patient in a public health setting, with the exception that hygiene services may be rendered without the patient’s first being examined by a licensed dentist;

*b.* The dentist is not required to provide future dental treatment to patients served under public health supervision;

c. The dentist and the dental hygienist have entered into a written supervision agreement that details the responsibilities of each licensee, as specified in subrule 10.5(3); and

d. The dental hygienist has an active Iowa license with a minimum of three years of clinical practice experience.

**10.5(3) Licensee responsibilities.** When working together in a public health supervision relationship, a dentist and dental hygienist shall enter into a written agreement that specifies the following responsibilities.

a. The dentist providing public health supervision must:

(1) Be available to provide communication and consultation with the dental hygienist;

(2) Have age- and procedure-specific standing orders for the performance of dental hygiene services. Those standing orders must include consideration for medically compromised patients and medical conditions for which a dental evaluation must occur prior to the provision of dental hygiene services;

(3) Specify a period of time in which an examination by a dentist must occur prior to providing further hygiene services. However, this examination requirement does not apply to educational services, assessments, screenings, and fluoride if specified in the supervision agreement; and

(4) Specify the location or locations where the hygiene services will be provided under public health supervision.

b. A dental hygienist providing services under public health supervision may provide assessments; screenings; data collection; and educational, therapeutic, preventive, and diagnostic services as defined in rule 10.3(153), except for the administration of local anesthesia or nitrous oxide inhalation analgesia, and must:

(1) Maintain contact and communication with the dentist providing public health supervision;

(2) Practice according to age- and procedure-specific standing orders as directed by the supervising dentist, unless otherwise directed by the dentist for a specific patient;

(3) Provide to the patient, parent, or guardian a written plan for referral to a dentist and assessment of further dental treatment needs;

(4) Have each patient sign a consent form that notifies the patient that the services that will be received do not take the place of regular dental checkups at a dental office and are meant for people who otherwise would not have access to services; and

(5) Specify a procedure for creating and maintaining dental records for the patients that are treated by the dental hygienist, including where these records are to be located.

c. The written agreement for public health supervision must be maintained by the dentist and the dental hygienist and must be made available to the board upon request. The dentist and dental hygienist must review the agreement at least biennially.

d. A copy of the written agreement for public health supervision shall be filed with the Bureau of Oral and Health Delivery Systems, Iowa Department of Public Health, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319.

**10.5(4) Reporting requirements.** Each dental hygienist who has rendered services under public health supervision must complete a summary report at the completion of a program or, in the case of an ongoing program, at least annually. The report shall be filed with the bureau of oral and health delivery systems of the Iowa department of public health on forms provided by the department and shall include information related to the number of patients seen and services provided so that the department may assess the impact of the program. The department will provide summary reports to the board on an annual basis.

This rule is intended to implement Iowa Code section 153.15.

[ARC 7767B, IAB 5/20/09, effective 6/24/09; ARC 0629C, IAB 3/6/13, effective 4/10/13; ARC 2141C, IAB 9/16/15, effective 10/21/15]

## **650—10.6(147,153,272C) Other requirements.**

**10.6(1) Change of address or name.** Each person licensed or registered by the board must notify the board, by written correspondence or through the board's online system, of a change of legal name



or address within 60 days of such change. Proof of a legal name change, such as a notarized copy of a marriage certificate, must accompany the request for a name change.

**10.6(2) *Child and dependent adult abuse training.*** Licensees or registrants who regularly examine, attend, counsel or treat children or adults in Iowa must obtain mandatory training in child and dependent adult abuse identification and reporting within six months of initial employment and subsequently every five years in accordance with 650—subrule 25.2(9).

**10.6(3) *Reporting requirements.*** Each licensee and registrant shall be responsible for reporting to the board, within 30 days, any of the following:

- a.* Every adverse judgment in a professional malpractice action to which the licensee or registrant was a party.
- b.* Every settlement of a claim against the licensee or registrant alleging malpractice.
- c.* Any license or registration revocation, suspension or other disciplinary action taken by a licensing authority of another state, territory or country within 30 days of the final action by the licensing authority.

This rule is intended to implement Iowa Code sections 147.9, 232.69, 235B.16 and 272C.9.  
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<sup>1</sup> Effective date of 10.3(1) delayed until the end of the 2000 Session of the General Assembly by the Administrative Rules Review Committee at its meeting held September 15, 1999.

†See HJR 2006 of 2006 Session of the Eighty-first General Assembly regarding nullification of subrule 10.6(4).



CHAPTER 71  
ASSESSMENT PRACTICES AND EQUALIZATION  
[Prior to 12/17/86, Revenue Department[730]]

**701—71.1(405,427A,428,441,499B) Classification of real estate.**

**71.1(1) *Responsibility of assessors.*** All real estate subject to assessment by city and county assessors shall be classified as provided in this rule. It shall be the responsibility of city and county assessors to determine the proper classification of real estate. There can be only one classification per property under this rule, except as provided for in paragraph 71.1(5) “b.” An assessor shall not assign one classification to the land and a different classification to the building or separate classifications to the land or separate classifications to the building. A building or structure on leased land is considered a separate property and may be classified differently than the land upon which it is located. The determination shall be based upon the best judgment of the assessor following the guidelines set forth in this rule and the status of the real estate as of January 1 of the year in which the assessment is made. The assessor shall classify property according to its present use and not according to its highest and best use. See subrule 71.1(9) for an exception to the general rule that property is to be classified according to its use. The classification shall be utilized on the abstract of assessment submitted to the department of revenue pursuant to Iowa Code section 441.45. See rule 701—71.8(428,441).

**71.1(2) *Responsibility of boards of review, county auditors, and county treasurers.*** Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall classify property as provided in this rule and adhere to the requirements of this rule.

**71.1(3) *Agricultural real estate.***

*a. Generally.* Agricultural real estate shall include all tracts of land and the improvements and structures located on them which are in good faith used primarily for agricultural purposes except buildings which are primarily used or intended for human habitation as defined in subrule 71.1(4). Land and the nonresidential improvements and structures located on it shall be considered to be used primarily for agricultural purposes if its principal use is devoted to the raising and harvesting of crops or forest or fruit trees, the rearing, feeding, and management of livestock, or horticulture, all for intended profit. Agricultural real estate shall also include woodland, wasteland, and pastureland, but only if that land is held or operated in conjunction with agricultural real estate as defined in paragraph “a” or “b” of this subrule.

*b. Vineyards.* Beginning with valuations established on or after January 1, 2002, vineyards and any buildings located on a vineyard and used in connection with the vineyard shall be classified as agricultural real estate if the primary use of the land and buildings is an activity related to the production or sale of wine.

*c. Algae cultivation and production.* Beginning with valuations established on or after January 1, 2013, real estate used directly in the cultivation and production of algae for harvesting as a crop for animal feed, food, nutritionals, or biofuel production shall be classified as agricultural real estate if the real estate is an enclosed pond or land which contains a photobioreactor. Pursuant to 2013 Iowa Acts, House File 632, section 1, a photobioreactor is not attached to land upon which it sits and shall not be assessed and taxed as real property.

(1) Determining direct usage. To determine if real estate is used “directly” in the cultivation and production of algae, one must first ensure that the real estate is used to perform activities that cultivate and produce algae and is not used for activities that occur before or after the cultivation and production of algae. If the real estate is used to perform activities for the cultivation and production of algae, to be “directly” so used, the real estate must be used to perform activities that are integral and essential to the cultivation and production, as distinguished from activities that are incidental, merely convenient to, or remote from cultivation and production. The fact that real estate is used for activities that are essential or necessary to the cultivation and production of algae does not mean that the real estate is also “directly” used in production. Even if the real estate is used for activities that are essential or necessary

to the cultivation and production of algae, if the activities are far enough removed from the cultivation or production of algae, the real estate would not qualify for the agricultural designation.

(2) Examples. The following are nonexclusive examples of real estate which would not be directly used in the cultivation and production of algae:

1. Real estate that is used to store, assemble, or repair machinery and equipment that is used for cultivation and production of algae.
2. Real estate that is used in the management, administration, advertising, or selling of algae.
3. Real estate that is used in the management, administration, or planning of the cultivation and production of algae.
4. Real estate that is used for packaging of the algae which has been produced and cultivated.

**71.1(4) Residential real estate.** Residential real estate shall include all lands and buildings which are primarily used or intended for human habitation containing fewer than three dwelling units, as that term is defined in subparagraph 71.1(5)“a”(5), including those buildings located on agricultural land. Buildings used primarily or intended for human habitation shall include the dwelling as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling. This includes but is not limited to garages, whether attached or detached, tennis courts, swimming pools, guest cottages, and storage sheds for household goods. “Used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling and when marketed for sale would be sold as a unit. Residential real estate located on agricultural land shall include only buildings as defined in this subrule. Buildings for human habitation that are used as commercial ventures, including but not limited to hotels, motels, rest homes, and structures containing three or more separate living quarters shall not be considered residential real estate. However, regardless of the number of separate living quarters, multiple housing cooperatives organized under Iowa Code chapter 499A and land and buildings owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be considered residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use for human habitation shall be classified as residential real estate regardless of who occupies the apartment. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

**71.1(5) Multiresidential real estate.** Multiresidential real estate shall include all parcels or portions of a parcel which are primarily used or intended for human habitation containing three or more separate dwelling units as well as structures and improvements used primarily as a part of, or in conjunction with, the dwelling units. For purposes of this rule, “used in conjunction with” means that the structure or improvement is located on the same parcel, on contiguous parcels, or on a parcel directly across a street or alley as the building or structure containing the dwelling units and when marketed for sale would be sold as a unit. Multiresidential real estate shall include mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities. Multiresidential real estate shall exclude properties referred to in Iowa Code section 427A.1(8) or properties subject to valuation under Iowa Code section 441.21(2).

*a. Definitions.* For purposes of this subrule, the following definitions apply:

(1) “Mobile home park” means any land upon which three or more mobile homes, as defined in Iowa Code section 435.1, or manufactured homes, as defined in Iowa Code section 435.1, or a combination of such homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer, or septic, and electrical services available. “Mobile home park” does not include homes where the owner of the land is providing temporary housing for the owner’s employees or students.

(2) “Manufactured home community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes, as defined in Iowa Code section 435.1, are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the community.

“Manufactured home community” shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students. “Manufactured home community” means the same as “land-leased community” as defined in Iowa Code sections 335.30A and 414.28A.

(3) “Land-leased community” means any site, lot, field, or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, or enclosure used or intended for use as part of the equipment of the land-leased community. “Land-leased community” shall not be construed to include homes, buildings, or other structures temporarily maintained by any individual, educational institution, or company on their own premises and used exclusively to house their own labor or students.

(4) “Assisted living facility” means real estate that provides housing with services which may include but are not limited to health-related care, personal care, and assistance with instrumental activities of daily living to three or more tenants in a physical structure which provides a homelike environment. “Assisted living facility” also includes a health care facility, as defined in Iowa Code section 135C.1, an elder group home, as defined in Iowa Code section 231B.1, a child foster care facility under Iowa Code chapter 237, or property used for a hospice program as defined in Iowa Code section 135J.1.

(5) “Dwelling unit” means an apartment, group of rooms, or single room which is occupied as separate living quarters or, if vacant, is intended for occupancy as separate living quarters, in which a tenant can live and sleep separately from any other persons in the building. A vacant dwelling unit that does not have active utility services is not considered to be intended for occupancy.

*b. Dual classification.* Assessors shall use dual classification on parcels where the primary use of the parcel is commercial or industrial and a portion or portions of the parcel are used or intended for human habitation, regardless of the number of dwelling units. For the assessment year beginning January 1, 2015, a parcel where the primary use is multiresidential shall not receive a dual classification but instead shall be classified multiresidential for the entire parcel.

For assessment years beginning January 1, 2016, and after, assessors shall use dual classification on properties where the primary use of the parcel meets the requirements of the multiresidential classification and a portion or portions of the parcel meet the requirements of the commercial classification under subrule 71.1(6) or the industrial classification under subrule 71.1(7). If the primary use of a parcel is for human habitation and the parcel contains fewer than three separate dwelling units, it shall be classified as residential real estate under subrule 71.1(4).

The only permissible combinations of dual classifications are commercial and multiresidential or industrial and multiresidential. The assessor shall assign to that portion of the parcel that satisfies the requirements the classification of multiresidential property and to such other portions of the parcel the property classification for which such other portions qualify. The assessor shall maintain the valuation and assessment of property with a dual classification on one parcel record.

*c. Section 42 housing.* Property that has elected special valuation procedures under Iowa Code section 441.21(2) and is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code shall not be classified as multiresidential property as required by 2014 Iowa Acts, House File 2466, section 3.

*d. Short-term leases.* A hotel, motel, inn or other building where rooms or dwelling units are usually rented for less than one month shall not be classified as multiresidential property.

**71.1(6) Commercial real estate.** Commercial real estate shall include all lands and improvements and structures located thereon which are primarily used or intended as a place of business where goods, wares, services, or merchandise is stored or offered for sale at wholesale or retail. Commercial realty shall also include hotels, motels, and property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code and has not been withdrawn from Section 42 assessment procedures under Iowa Code section 441.21(2). Commercial real estate shall also include data processing equipment as defined in Iowa Code section 427A.1(1) “j,” except data processing equipment used in the manufacturing process. However, regardless of the number of separate living quarters or any commercial use of the property, single- and two-family dwellings, multiple housing cooperatives organized under Iowa Code chapter 499A, and land and buildings used primarily for human

habitation and owned and operated by organizations that have received tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, if the rental income from the property is not taxed as unrelated business income under Iowa Code section 422.33(1A), shall be classified as residential real estate.

An apartment in a horizontal property regime (condominium) referred to in Iowa Code chapter 499B which is used or intended for use as a commercial venture, other than leased for human habitation, shall be classified as commercial real estate. Existing structures shall not be converted to a horizontal property regime unless building code requirements have been met.

**71.1(7) Industrial real estate.**

*a. Land and buildings.*

(1) Industrial real estate includes land, buildings, structures, and improvements used primarily as a manufacturing establishment. A manufacturing establishment is a business entity in which the primary activity consists of adding to the value of personal property by any process of manufacturing, refining, purifying, the packing of meats, or the combination of different materials with the intent of selling the product for gain or profit. Industrial real estate includes land and buildings used for the storage of raw materials or finished products and which are an integral part of the manufacturing establishment, and also includes office space used as part of a manufacturing establishment.

(2) Whether property is used primarily as a manufacturing establishment and, therefore, assessed as industrial real estate depends upon the extent to which the property is used for the activities enumerated in subparagraph 71.1(7) “a”(1). Property in which the performance of these activities is only incidental to the property’s primary use for another purpose is not a manufacturing establishment. For example, a grocery store in which bakery goods are prepared would be assessed as commercial real estate since the primary use of the grocery store premises is for the sale of goods not manufactured by the grocery and the industrial activity, i.e., baking, is only incidental to the store premises’ primary use. However, property which is used primarily as a bakery would be assessed as industrial real estate even if baked goods are sold at retail on the premises since the bakery premises’ primary use would be for an industrial activity to which the retail sale of baked goods is merely incidental. See *Lichty v. Board of Review of Waterloo*, 230 Iowa 750, 298 N.W. 654 (1941).

Similarly, a facility which has as its primary use the mixing and blending of products to manufacture feed would be assessed as industrial real estate even though a portion of the facility is used solely for the storage of grain, if the use for storage is merely incidental to the property’s primary use as a manufacturing establishment. Conversely, a facility used primarily for the storage of grain would be assessed as commercial real estate even though a part of the facility is used to manufacture feed. In the latter situation, the industrial use of the property — the manufacture of feed — is merely incidental to the property’s primary use for commercial purposes — the storage of grain.

(3) Property used primarily for the extraction of rock or mineral substances from the earth is not a manufacturing establishment if the only processing performed on the substance is to change its size by crushing or pulverizing. See *River Products Company v. Board of Review of Washington County*, 332 N.W.2d 116 (Iowa Ct. App. 1982).

*b. Machinery.*

(1) Machinery includes equipment and devices, both automated and nonautomated, which is used in manufacturing as defined in Iowa Code section 428.20. See *Deere Manufacturing Co. v. Beiner*, 247 Iowa 1264, 78 N.W.2d 527 (1956).

(2) Machinery owned or used by a manufacturer but not used within the manufacturing establishment is not assessed as industrial real estate. For example, “X” operates a factory which manufactures building materials for sale. In addition, “X” uses some of these building materials in construction contracts. The machinery which “X” would primarily use at the construction site would not be used in a manufacturing establishment and, therefore, would not be assessed as industrial real estate.

(3) Machinery used in manufacturing but not used in or by a manufacturing establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

(4) Where the primary function of a manufacturing establishment is to manufacture personal property that is consumed by the manufacturer rather than sold, the machinery used in the manufacturing

establishment is not assessed as industrial real estate. See *Associated General Contractors of Iowa v. State Tax Commission*, 255 Iowa 673, 123 N.W.2d 922 (1963).

**71.1(8) Point-of-sale equipment.** As used in Iowa Code section 427A.1(1)“j,” the term “point-of-sale equipment” means input, output, and processing equipment used to consummate a sale and to record or process information pertaining to a sale transaction at the time the sale takes place and which is located at the counter, desk, or other specific point at which the transaction occurs. As used in this subrule, the term “sale” means the sale or rental of goods or services and includes both retail and wholesale transactions. Point-of-sale equipment does not include equipment used primarily for depositing or withdrawing funds from financial institution accounts.

**71.1(9) Housing development property.**

*a. Ordinances adopted or amended on or after January 1, 2011.*

(1) Adoption of ordinance by board of supervisors. A county board of supervisors may adopt an ordinance providing that property acquired and subdivided for development of housing on or after January 1, 2011, shall continue to be assessed for taxation in the manner it was assessed prior to the acquisition. Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing or 5 years from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted or otherwise made effective under 2011 Iowa Code Supplement section 405.1(1)“a” to extend the 5-year time period for a period of time not to exceed 5 years beyond the end of the original 5-year period established under 2011 Iowa Code Supplement section 405.1(1). Thus, the maximum special assessment time for ordinances adopted on or subsequent to January 1, 2011, is 10 years. An extension of an ordinance under 2011 Iowa Code Supplement section 405.1(1)“a” may apply to all or a portion of the property that was subject to the original ordinance.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement section 405.1(1)“a,” extending the county ordinance not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or subsequent to January 1, 2011, is 10 years if the city council amends an ordinance originally adopted by the county board of supervisors.

(4) Sale of lot; expiration of 5-year or extended period. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 5-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

(5) Definition of “subdivide.” As used in both paragraphs 71.1(9)“a” and “b,” “subdivide” means to divide a tract of land into three or more lots.

*b. Ordinances adopted on or after January 1, 2004, but prior to January 1, 2011.*

(1) Ordinances adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), to the extent such ordinances affect the assessment of property subdivided for development of housing on or after January 1, 2004, but before January 1, 2011, shall remain in effect or otherwise be made effective, and such ordinances:

1. Adopted under 2011 Iowa Code Supplement section 405.1(1), applicable to counties with a population of less than 20,000, shall be extended, from a period of 5 years, to apply to a period of 10 years from the date of subdivision.

2. Adopted under 2011 Iowa Code Supplement section 405.1(2), applicable to counties with a population of 20,000 or more, shall be extended, from a period of 3 years, to apply to a period of 8 years from the date of subdivision.

Each lot shall continue to be taxed in the manner it was taxed prior to acquisition for housing until the lot is sold for construction or occupancy of housing, or 10 years pursuant to paragraph “1” above or 8 years pursuant to paragraph “2” above (or the extended period, if applicable) from the date of subdivision, whichever occurs first.

(2) Amendments to ordinance by board of supervisors. On or after July 27, 2011, the board of supervisors of a county may amend an ordinance adopted under 2011 Iowa Code Supplement section 405.1(1) or 405.1(2) to extend the 10- and 8-year periods, respectively, for a period of time not to exceed 5 years beyond the end of the 10- and 8-year periods established under 2011 Iowa Code Supplement section 405.1(1)“b.” Thus, the maximum special assessment time for ordinances adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years. For counties with a population of 20,000 or more, the maximum shall be 13 years.

(3) Amendments to ordinance by city council. A city council may adopt an ordinance, affecting all or a portion of the property located within the incorporated area of the city subject to the county ordinance adopted under 2011 Iowa Code Supplement sections 405.1(1) and 405.1(2), extending the county ordinances not previously extended by the board of supervisors up to 5 years. An ordinance by a city council providing for an extension under 2011 Iowa Code Supplement section 405.1(3) shall be subject to the 5-year limitation under 2011 Iowa Code Supplement section 405.1(2). Thus, the maximum time to appeal an ordinance adopted on or after January 1, 2004, but prior to January 1, 2011, for counties with a population of less than 20,000 shall be 15 years if the city council amends an ordinance originally adopted by the board of supervisors. For counties with a population of 20,000 or more, the maximum special assessment time shall be 13 years.

(4) Sale of lot. Upon the sale of the lot for construction or occupancy for housing or upon the expiration of the 10- or 8-year or extended period, the property shall be assessed for taxation as residential or commercial multifamily property, whichever is applicable.

**71.1(10) *Assessment of platted lots.***

a. When a subdivision plat is recorded pursuant to Iowa Code chapter 354 on or after January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 5 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

b. For subdivision plats recorded pursuant to Iowa Code chapter 354 (relating to division and subdivision of land) on or after January 1, 2004, but before January 1, 2011, the individual lots within the subdivision plat shall not be assessed, in the aggregate, in excess of the total assessment of the land as acreage or unimproved property for 8 years after the recording of the plat or until the lot is actually improved with permanent construction, whichever occurs first. When an individual lot has been improved with permanent construction, the lot shall be assessed for taxation purposes as provided in Iowa Code chapters 428 and 441.

c. 2011 Iowa Code Supplement section 441.72 does not apply to special assessment levies.

This rule is intended to implement Iowa Code sections 405.1, 427A.1, 428.4 and 441.22 and chapter 499B and Iowa Code Supplement section 441.21 as amended by 2002 Iowa Acts, House File 2584.

[ARC 8559B, IAB 3/10/10, effective 4/14/10; ARC 0400C, IAB 10/17/12, effective 11/21/12; ARC 1196C, IAB 11/27/13, effective 1/1/14; ARC 1765C, IAB 12/10/14, effective 1/14/15; ARC 2146C, IAB 9/16/15, effective 10/21/15]

**701—71.2(421,428,441) *Assessment and valuation of real estate.***

**71.2(1) *Responsibility of assessor.*** The valuation of real estate as established by city and county assessors shall be the actual value of the real estate as of January 1 of the year in which the assessment is made. New parcels of real estate created by the division of existing parcels of real estate shall be assessed separately as of January 1 of the year following the division of the existing parcel of real estate.

**71.2(2) *Responsibility of other assessing officials.*** Whenever local boards of review, county auditors, and county treasurers exercise assessment functions allowed or required by law, they shall follow the provisions of subrule 71.2(1) and rules 701—71.3(421,428,441) to 701—71.7(421,427A,428,441).

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

**701—71.3(421,428,441) *Valuation of agricultural real estate.*** Agricultural real estate shall be assessed at its actual value as defined in Iowa Code section 441.21 by giving exclusive consideration to its productivity and net earning capacity. In determining the actual value of agricultural real estate,



city and county assessors shall use the Iowa Real Property Appraisal Manual and any other guidelines issued by the department of revenue pursuant to Iowa Code section 421.17(18).

**71.3(1) Productivity.**

*a.* In determining the productivity and net earning capacity of agricultural real estate, the assessor shall also use available data from Iowa State University, the United States Department of Agriculture (USDA) National Agricultural Statistics Service (NASS), the USDA Farm Service Agency (FSA), the Iowa department of revenue, or other reliable sources. The assessor shall also consider the results of a modern soil survey, if completed. The assessor shall determine the actual valuation of agricultural real estate within the assessing jurisdiction and distribute such valuation throughout the jurisdiction so that each parcel of real estate is assessed at its actual value as defined in Iowa Code section 441.21.

*b.* In distributing such valuation to each parcel under paragraph 71.3(1) “*a*,” the assessor shall adjust non-cropland. The adjustment shall be applied to non-cropland with a corn suitability rating (CSR) that is greater than 50 percent of the average CSR for cropland for the county. The adjustment shall be determined for each county based upon the five-year average difference in cash rent between non-irrigated cropland and pasture land as published by NASS. The assessor may utilize the USDA FSA-published Common Land Unit digital data or other reliable sources in determining non-cropland. Counties shall implement the adjustments under this paragraph on or before the 2017 assessment year. The department of revenue may, in a case involving hardship, extend the implementation of the adjustments required under this paragraph to the 2019 assessment year. No extension of time shall be granted unless the county makes a written request to the department of revenue for such action.

*c.* A taxpayer may apply to the county for the adjustment to non-cropland under paragraph 71.3(1) “*b*” beginning with the 2014 assessment and until the county’s full implementation of this subrule. Upon application, and subsequent approval by the assessor, the county assessor shall adjust non-cropland as provided in paragraph 71.3(1) “*b*.” Once a taxpayer applies for the adjustment, and upon approval, the assessor shall make the adjustment to the assessment year for which the application was submitted and until the county’s full implementation of this subrule, without the need to reapply for the adjustment.

*d.* **EXAMPLE.** The following is an example of the calculation used to compute adjustment on land determined to be non-cropland with a CSR that is greater than 50 percent of the average CSR for cropland for the county:

Average county CSR rating for cropland	80 CSR
50% of average cropland CSR	40 CSR
Example of non-cropland soil 11b CSR rating	58 CSR
Non-cropland CSR points to be adjusted	$58 - 40 = 18$ CSR points
5-year average rent for non-irrigated cropland	\$163.60
5-year average rent for pasture land	\$48.30
Percent difference (rounded)	$1 - (\$48.30/\$163.60) = 70\%$
Apply the percent difference to points to be adjusted	$18 \text{ CSR points} \times (1 - .70) = 5.40$ adjusted CSR points
Adjusted CSR non-cropland	$40 + 5.40 = 45.40$ adjusted CSR points

**71.3(2) Agricultural factor.** In order to determine a productivity value for agricultural buildings and structures, assessors must make an agricultural adjustment to the market value of these buildings and structures by developing an “agricultural factor” for the assessors’ jurisdictions. The agricultural factor for each jurisdiction is the product of the ratio of the productivity and net earning capacity value per acre as determined under subrule 71.12(1) over the market value of agricultural land within the assessing jurisdiction. The resulting ratio is then applied to the actual value of the agricultural buildings and structures as determined under the Iowa Real Property Appraisal Manual prepared by the department. The agricultural factor must be applied uniformly to all agricultural buildings and structures in the assessing jurisdiction. As an example, if a building’s actual value is \$500,000 and the agricultural factor is 30 percent, the productivity value of that building is \$150,000. See *H & R Partnership v. Davis*

*County Board of Review*, 654 N.W.2d 521 (Iowa 2002). The 2007, 2008, and 2009 average of the market value of land will be used in determining the agricultural factor for assessment year 2011. A five-year market value average of land for years used to determine the productivity formula will be used to determine the agricultural factor for assessment year 2013 and subsequent assessment years.

**71.3(3) Classification.** Land classified as agricultural real estate includes the land beneath any dwelling and appurtenant structures located on that land and shall be valued by the assessor pursuant to rule 701—71.3(421,428,441). An assessor shall not value a part of the land as agricultural real estate and a part of the land as if it is residential real estate.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

[ARC 8542B, IAB 2/24/10, effective 3/31/10; ARC 9478B, IAB 4/20/11, effective 5/25/11; ARC 0770C, IAB 5/29/13, effective 7/3/13]

**701—71.4(421,428,441) Valuation of residential real estate.** Residential real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of residential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

**701—71.5(421,428,441) Valuation of commercial real estate.** Commercial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21. In determining the actual value of commercial real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data available.

**71.5(1) Property of long distance telephone companies.** The director of revenue shall assess the property of long distance telephone companies as defined in Iowa Code section 476.1D(10) which property is first assessed for taxation on or after January 1, 1996, in the same manner as commercial real estate.

**71.5(2) Low-income housing subject to Section 42 of the Internal Revenue Code.**

*a. Productive and earning capacity.* In assessing property that is rented or leased to low-income individuals and families as authorized by Section 42 of the Internal Revenue Code which limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property.

*b. Direct capitalization method.* The income approach to valuation shall be applied using the direct capitalization method. The assessor may use the discounted cash flow method as a test of the reasonableness of the results produced by the direct capitalization method. The direct capitalization method of the income approach involves dividing the Net Operating Income (NOI) on a cash basis by an overall capitalization rate to derive an indication of the value of the property for the assessment year.

In applying the direct capitalization method, the assessor shall develop a normalized measure of annual NOI based on the productive and earning capacity of the development utilizing (1) the actual rent schedule applicable for each of the available units as of January 1 of the year of assessment indicating the actual rent to be paid by the resident plus any Section 8 rental assistance or other direct cash rental subsidy provided to the resident by federal, state or local rent subsidy programs as limited pursuant to Section 42 of the Internal Revenue Code, (2) a normal vacancy/collection allowance, (3) the prior year's actual and current year's projected annual operating expenses associated with the property, excluding noncash items such as depreciation and amortization, but including property taxes and those actual costs expected to be incurred and paid as required by Internal Revenue Code Section 42 regulations, provisions, and restrictions as applicable to the assessment year, and (4) an appropriate provision for replacement reserves.

If no separate line item is included for reserves for replacement in the historic income and expense data, then the maintenance and repair categories of the historic expense data must be itemized. For

properties that have attained a normalized operating history, the NOI results of the prior three years (as represented in the statements variously named as the Income and Loss Statement, the Profit and Loss Statement, the Income Statement, the Actual to Budget Comparison Statement, Balance Sheet, or some name variation of these) may be used to provide the basis for determining the normalized NOI used for purposes of applying the direct capitalization method for the year of assessment, provided an appropriate replacement reserve is included in the NOI determination and provided any additional costs required as a result of Section 42 regulation or compliance changes for the assessment year are included as an operating expense in the NOI determination. In addition, the assessor may utilize the current year operating budget to develop a measure of NOI for the assessment year. The assessor, in developing the measure of annual NOI on a cash basis, shall not consider as income any potential rental income differential that could otherwise be received from the property if the rents were not limited pursuant to Section 42 of the Internal Revenue Code, any tax credit equity, any tax credit value, or other subsidized financing.

*c. Filing of reports.* It shall be the responsibility of the property owner to file income and expense data with the local assessor by March 1 of each year. The assessor may require the filing of additional information if deemed necessary.

*d. Capitalization rate.* The overall capitalization rate to be used in applying the direct capitalization method for a Section 42 property is developed through the band-of-investment technique. The capitalization rate will be calculated annually by the Iowa department of revenue and distributed to all Iowa assessors by March 1. The capitalization rate is a composite rate weighted by the proportions of total property investment represented by debt and equity. The capital structure weights equity at 80 percent and debt at 20 percent unless actual market capital structure can be verified to the assessor. The yield, or market rate of return, for equity is calculated using the capital asset pricing model (CAPM). The yield for debt is equivalent to the average yield on 25-year Treasury bonds referred to as the Treasury long-term average rate. An example of the band-of-investment technique to be utilized is as follows:

	<u>% to Total</u>	<u>Yield</u>	<u>Composite</u>
Equity	80%	11.05%	8.84%
Debt	20%	5.94%	1.19%
	<u>100%</u>		<u>10.03%</u>

*e. Capital asset pricing model.* The capital asset pricing model (CAPM) is utilized to develop the equity rate. The formula is:

$$R_e = B(R_m - R_f) + R_f$$

Where:

- $R_e$  = return on equity
- $B$  = beta
- $R_m$  = return on the market
- $R_f$  = risk-free rate of return
- $R_m - R_f$  = market-risk premium

The beta is assumed to be 1 which indicates the risk level to be consistent with the market as a whole. The risk-free rate is calculated by finding the average of the three-month and six-month Treasury bill. The return on the market is calculated by taking the average of the return on the market for the Merrill Lynch Property and Standard and Poor's 500 or by reference to other published secondary sources.

*f. Properties under construction.* For Section 42 properties under construction, the assessor may value the property by applying the percentage of completion to the replacement cost new (RCN) as calculated from the Iowa Real Property Appraisal Manual and adding the fair market value of the land. Alternatively, projected income and expense data may be utilized if available.

*g. Negative or minimal NOI.* If the Section 42 property shows a negative or minimal net operating income (NOI), the indicator of value as set forth in these rules shall not be utilized.

*h. Eligibility withdrawn.* The property owner shall notify the assessor when property is withdrawn from Section 42 eligibility under the Internal Revenue Code. The notification must be provided by March 1 of the assessment year or the owner is subject to a penalty of \$500.

This rule is intended to implement Iowa Code sections 421.17, 428.4, 441.21 as amended by 2004 Iowa Acts, Senate File 2296, and 476.1D(10).

**701—71.6(421,428,441) Valuation of industrial land and buildings.** Industrial real estate shall be assessed at its actual value as defined in Iowa Code section 441.21.

In determining the actual value of industrial land and buildings, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code subsection 421.17(18), and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21.

**701—71.7(421,427A,428,441) Valuation of industrial machinery.** Industrial machinery as referred to in Iowa Code section 427A.1(1) “e” shall include all machinery used in manufacturing establishments and shall be assessed as real estate even though such machinery might be assessed as personal property if not used in a manufacturing establishment.

In determining the actual value of industrial machinery assessed as real estate, the assessor shall give consideration to the “Industrial Machinery and Equipment Valuation Guide” issued by the department of revenue and any other relevant data available.

This rule is intended to implement Iowa Code sections 421.17, 427A.1, 428.4 and 441.21.

**701—71.8(428,441) Abstract of assessment.** Each city and county assessor shall submit annually to the director of revenue at the times specified in Iowa Code section 441.45 an abstract of assessment for the current year. The assessor shall use the form of abstract prescribed and furnished by the department of revenue, and shall enter on the abstract all information required by the department. However, the department may approve the use of a computer-prepared abstract if the data is essentially the same format as on the form prescribed by the department. The information entered on the abstract of assessment shall be reviewed and considered by the director of revenue in equalizing the valuations of classes of properties.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

**701—71.9(428,441) Reconciliation report.** The assessor’s report of any revaluation required by Iowa Code section 428.4 shall be made on the reconciliation report prescribed and furnished by the department of revenue. The assessor shall enter on the report all information required by the department. The reconciliation report shall be a part of the abstract of assessment required by Iowa Code section 441.45 and shall be reviewed and considered by the director in equalizing valuations of classes of property.

This rule is intended to implement Iowa Code sections 428.4 and 441.45.

**701—71.10(421) Assessment/sales ratio study.**

**71.10(1) Basic data.** Basic data shall be that submitted to the department of revenue by county recorders and city and county assessors on forms prescribed and provided by the department, information furnished by parties to real estate transactions, and information obtained by field investigations made by the department of revenue.

**71.10(2) Responsibility of recorders and assessors.** County recorders and city and county assessors shall complete the prescribed forms as required by Iowa Code subsection 421.17(6) and rule 701—79.3(428A) in accordance with instructions issued by the department. Assessed values entered on the prescribed form shall be those established as of January 1 of the year in which the sale takes place.

**71.10(3) Normal sales.** All real estate transfers shall be considered by the department of revenue to be normal sales unless there exists definite information which would indicate the transfer was not an arms-length transaction or is of an excludable nature as provided in Iowa Code section 441.21.

This rule is intended to implement Iowa Code section 421.17.

**701—71.11(441) Equalization of assessments by class of property.** Commencing in 1977 and every two years thereafter, the director of revenue shall order the equalization of the levels of assessment of each class of property as provided in rule 701—71.12(441) by adding to or deducting from the valuation of each class of property, as reported to the department on the abstract of assessment and reconciliation report which is a part of the abstract, the percentage in each case as may be necessary to bring the level of assessment to its actual value as defined in Iowa Code section 441.21. Valuation adjustments shall be ordered if the director determines that the aggregate valuation of a class of property as reported on the abstract of assessment submitted by the assessor is at least 5 percent above or below the aggregate valuation for that class of property as determined by the director pursuant to rule 701—71.12(441). Equalization orders of the director shall be restricted to equalizing the aggregate valuations of entire classes of property among the several assessing jurisdictions. All classifications of real estate shall be applied uniformly throughout the state of Iowa.

Equalization percentage adjustments determined for residential realty located outside incorporated areas and not located on agricultural land shall apply to buildings located on agricultural land outside incorporated areas, which are primarily used or intended for human habitation, as defined in subrule 71.1(4).

Equalization percentage adjustments determined for residential realty located within incorporated cities and not located on agricultural land shall apply to buildings located on agricultural land within incorporated cities which are primarily used or intended for human habitation as defined in subrule 71.1(4).

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

**701—71.12(441) Determination of aggregate actual values.**

**71.12(1) Agricultural real estate.**

*a. Use of income capitalization study.* The equalized valuation of agricultural realty shall be based upon its productivity and net earning capacity and shall be determined in accordance with the provisions of this subrule. Data used shall pertain to crops harvested during the five-year period ending with the calendar year in which assessments were last equalized. The equalized valuation of agricultural realty shall be determined for each county as follows:

(1) Computation of county acres. This information shall be obtained from the USDA National Agricultural Statistics Service.

1. Total acres in farms: Total acreage used for agricultural purposes.
2. Corn acres: Sum of corn acres harvested including silage, popcorn and acres planted for sorghum.
3. Oats and wheat acres: Sum of oats and wheat acres harvested.
4. Soybean acres: Soybean acres harvested.
5. Hay acres: All hay acres harvested.
6. Pasture acres: All pasture acres. Total pasture acres shall be determined by multiplying the total acres in farms reported by the USDA National Agricultural Statistics Service by the percentage which total pasture land as reported in the most recent U.S. Census of Agriculture bears to the total acreage in farmland also reported in the most recent U.S. Census of Agriculture. The amount of tillable and nontillable pasture acres shall be determined as follows:

1.	From the most recent U.S. Census of Agriculture obtain the following:		
	Cropland used only for pasture and grazing	_____	acres
	Woodland pasture	_____	acres
	Pasture land and rangeland (other than cropland and woodland pasture)	_____	acres
	TOTAL PASTURE LAND (total of above):	_____	acres
2.	Determine what percentage of the total pasture land is cropland used only for pasture:	_____	%
3.	Apply the percentage in "2" above to the 5-year average total acres of pasture as determined above to determine the pasture acres to be classified as tillable pasture. The remainder of the 5-year average shall be classified as nontillable pasture land.	_____	acres

7. Government programs: Determine the 5-year average acres participating in applicable government programs. Obtain data from the USDA Farm Service Agency, including but not limited to acreage devoted to the Payment-In-Kind (PIK), diverted and deficiency programs.

8. Other acres: The difference between the total acreage for land uses listed above and the total of all land in farms. Add the total of the corn, oats, soybeans, hay, tillable and nontillable pasture and diverted acres. Subtract this total from total acres in farms. The residual is classified as other acres.

(2) Computation of county yields. This information shall be obtained for each county from the USDA National Agricultural Statistics Service.

1. Corn yield (including silage): Number of bushels of corn harvested for grain per acre.

2. Oat yield (including wheat): Number of bushels of oats harvested per acre.

3. Soybean yield: Number of bushels per acre harvested.

4. Hay yield in tons: Number of tons per acre harvested.

(3) Computation of county gross income.

1. Corn: One-half of the 5-year average production multiplied by the 5-year average price received for corn.

2. Silage: One-half of the 5-year average number of acres devoted to the production of silage multiplied by the 5-year average production per acre for corn. The amount of production so determined shall be added to the 5-year average production for corn and included in the determination of the gross income for corn.

3. Soybeans: One-half of the 5-year average production multiplied by the 5-year average price received.

4. Oats: One-half of the 5-year average production of oats and wheat multiplied by the 5-year average price received for oats.

5. Price adjustment: For corn, soybeans, hay, and oats, the prices used shall be as obtained from the USDA National Agricultural Statistics Service and shall be adjusted to reflect any individual county price conditions prior to the 2007 crop year. For the 2007 crop year and later, the USDA National Agricultural Statistics Service district prices shall be used and shall be adjusted to reflect any individual county price conditions.

6. Government programs: Gross income shall be one-half of the 5-year average amount of cash payments or equivalent (such as PIK bushels) including but not limited to diverted, deficiency and PIK programs as reported by the USDA Farm Service Agency.

7. Hay: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to hay by the product obtained by multiplying one-fourth of the 5-year average hay yield by the 5-year average price received for all types of hay.

8. Tillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to tillable pasture by the product obtained in “hay” above.

9. Nontillable pasture: Gross income shall be a cash rent amount determined by multiplying the 5-year average number of acres devoted to nontillable pasture by one-half the product obtained in “hay” above.

10. Other acres: Income shall be the product of the number of other acres multiplied by 17 percent of the net income per acre for all other land uses.

(4) Computation of county production costs. The following data and procedures shall be used to determine specific county production costs.

1. Basic average landlord production costs. Landlord production costs for corn, soybeans, oats, diverted acres, hay, tillable pasture, nontillable pasture, fertilizer costs, and facilities’ costs shall be obtained for each year from Iowa State University.

2. Production cost adjustment. The production costs for corn, soybeans, oats, and hay are adjusted for each county by multiplying the difference between the 5-year state average yield per acre and the 5-year county average yield per acre by the 5-year average facilities’ costs. If a county’s yield exceeds the state yield, production costs are increased by this amount. If a county’s yield is less than the state yield, production costs are reduced by this amount.

3. Fertilizer cost adjustment. The adjustment for fertilizer costs is determined as follows: Multiply the difference between the 5-year state average corn yield per acre and the 5-year county average corn yield per acre obtained from the USDA National Agricultural Statistics Service by the fertilizer cost amount per bushel determined by dividing the statewide average cost of landlord’s share of fertilizer cost per acre from Iowa State University by the statewide average corn yield per acre to produce the corn fertilizer cost per bushel adjustment. This amount is then multiplied by the 5-year county average corn acres determined in (2) above.

4. Expense adjustments. If a county’s 5-year average corn yield is greater than the state 5-year average corn yield, this amount is allowed as an additional expense. If the county’s average is less than the state average, this amount is an expense reduction.

5. Liability insurance cost adjustment. The 5-year average per acre cost of obtaining tort liability insurance shall be determined.

(5) Computation of county net income. From the total gross income, subtract the total expenses. Divide the resulting total by the total number of acres.

(6) Computation of dwelling adjustment factor. The amount determined in (5) above shall be reduced by 10.6 percent.

(7) Computation of county tax adjustment. Subtract the 5-year average per acre real estate taxes levied for land and structures including drainage and levee district taxes but excluding those levied against agricultural dwellings from the amount determined in (6) above. Taxes shall be the tax levied for collection during the 5-year period as reported by county auditors, and reduced by the amount of the agricultural land tax credit.

(8) Calculation of county valuation per acre. Divide the net income per acre ((7) above) for each county as determined above by the capitalization rate specified in Iowa Code section 441.21. The quotient shall be the actual per acre equalized valuation of agricultural land and structures for the current equalization year.

*b. Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of agricultural real estate.

*c. Determination of value.* The aggregate actual value of agricultural real estate in each county shall be determined by multiplying the equalized per acre value by the number of acres of agricultural real estate reported on the abstract of assessment for the current year, adjusted where necessary by the results of any field investigations conducted by the department of revenue and any other relevant data available.

**71.12(2) Residential real estate outside and within incorporated cities.**

*a. Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.10(421) refined by eliminating any sales determined to be abnormal or by adjusting the sales to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of residential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of the sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

*b. Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue to determine the level of assessment of residential real estate.

*c. Equalization appraisal selection procedures for residential real estate.* Residential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the following manner:

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser assigned to the jurisdiction shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 1,397 improved residential units. Dividing 1,397 by 10, 139.7 is arrived at, which is rounded down to 139. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 139 is to be selected. The person randomly selected number 20.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 20 and adding the interval number of 139 to it, each resulting number provides the following systematic sequence: 20, 159, 298, 437, 576, 715, 854, 993, 1,132, 1,271.

(2) Number of improved properties.

County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.



EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers
Franklin Twp.	57	1-57
Pleasant View	160	58-217
Jackson Twp.	56	218-273
Johnston	300	274-573
Polk Twp.	110	574-683
Washington Twp.	114	684-797
Maryville	306	798-1103
Camden Twp.	110	1104-1213
Salem	184	1214-1397
Total	1,397	

(3) Determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Residential Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	57	1-57	20	20
Pleasant View	160	58-217	159	102
Jackson Twp.	56	218-273		
Johnston	300	274-573	298,437	25,164
Polk Twp.	110	574-683	576	3
Washington Twp.	114	684-797	715	32
Maryville	306	798-1103	854,993	57,196
Camden Twp.	110	1104-1213	1132	29
Salem	184	1214-1397	1271	58
Total	1,397			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 20. Since the improved residential properties in Franklin Township have been assigned code numbers 1 to 57, sequence number 20 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the twentieth improved residential entry.

Document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

Current year sale

Partial assessment

Prior equalization appraisal

Tax-exempt

Value established by court action

Value is not more than \$10,000

Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 20 is ineligible, use code number 21 as a substitute. If code number 21 is ineligible, use code number 22, etc., until an eligible property is found.

If the procedure described in 71.12(2) "c"(3)"3" moves the substitute property to another city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(2) "c"(3)"3" even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(2) "c"(3)"2." Alternate properties are selected by using the same procedure described in 71.12(2) "c"(3)"3."

5. Follow procedures 71.12(2) "c"(3), items "1" to "4," for each of the other originally selected sequence numbers.

**71.12(3) Multiresidential real estate.**

a. *Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.11(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of multiresidential real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value.

b. *Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of multiresidential real estate.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

c. *Equalization appraisal selection procedures for multiresidential real estate.* To the extent possible, multiresidential properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined in paragraph 71.12(4) "c."

The following restrictions shall render a property ineligible for the appraisal selection for multiresidential property:

Vacant building

Current-year sale

Partial assessment

Tax-exempt

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action

Value is not more than \$10,000

Building on leased land

**71.12(4) Commercial real estate.**

*a. Use of assessment/sales ratio study.* Basic data shall be that set forth in rule 701—71.10(421), refined by eliminating any sales determined to be abnormal or by adjusting same to eliminate the effects of factors which resulted in the sales having been determined to be abnormal. The basic data used shall be the assessment/sales ratio study conducted for sales taking place during the calendar year immediately preceding the year in which the equalization order is issued. The director may also supplement the assessment/sales ratio study with appraisals made by department of revenue appraisal personnel for the year immediately preceding the year in which the equalization order is issued. The assessment/sales ratio study including relevant appraisals, if any, shall be used to determine the aggregate actual valuation of commercial real estate in each assessing jurisdiction. The director of revenue may consider sales and appraisal data for prior years if it is determined the use of sales and appraisal data for the year immediately preceding the year in which the equalization order is issued is insufficient to determine market value. If such sales and appraisal data for prior years is used, consideration shall be given for any subsequent changes in either assessed value or market value. Properties receiving a dual classification with the primary use being commercial shall be included.

*b. Use of other relevant data.* The director may also consider other relevant data, including field investigations conducted by representatives of the department of revenue, to determine the level of assessment of commercial real estate. The diverse nature of commercial real estate precludes the use of a countywide or citywide income capitalization study.

Assessors shall provide any known facts or circumstances regarding reported sales transactions and department appraisals which would indicate abnormal or unusual conditions or reporting discrepancies which would necessitate exclusion or adjustment of sales or appraisals from the determination of aggregate actual values. Assessors shall provide those facts within 45 days of receipt from the department of information concerning sales and appraisal data proposed for assessment/sales ratio and equalization purposes.

*c. Equalization appraisal selection procedures for commercial real estate.* Commercial properties to be appraised by department of revenue personnel for use in supplementing the assessment/sales ratio study shall be selected for each jurisdiction in the manner outlined below. Properties receiving a dual classification with the primary use being commercial shall be included.

(1) The department appraiser assigned to the jurisdiction shall determine a systematic random sequence of numbers equal to the number of appraisals required and document the following steps.

1. The department appraiser shall compute the interval number by dividing the total number of improved properties in the classification to be sampled by the number of appraisals to be performed.

EXAMPLE: In this example, ten appraisals are needed with a total of 397 improved commercial units. Dividing 397 by 10, 39.7 is arrived at, which is rounded down to 39. This is the interval number.

2. The selection of the first sequence number shall be accomplished by having an available disinterested person randomly select a number from one through the interval number.

EXAMPLE: In this example a number from 1 to 39 is to be selected. The person randomly selected number 2.

3. The department appraiser shall develop a systematic sequence of numbers equal to the number of appraisals required. Starting with the randomly selected number previously picked by the disinterested person, add the interval number to this number and to each resulting number until a systematic sequence of numbers is obtained.

EXAMPLE: In this example ten appraisals are needed, so a sequence of ten numbers must be developed. Starting with number 2 and adding the interval number of 39 to it, each resulting number provides the following systematic sequence: 2, 41, 80, 119, 158, 197, 236, 275, 314, 353.

(2) Number of improved properties.

1. City jurisdictions—Utilizing the assessment book or a computer printout which follows the same order as the assessment book, consecutively number all the improved units and document the procedure.

2. County jurisdictions—Put the name of each city or township having improved units in the classification to be sampled into a hat. Draw each one out of the hat and record its name in the order

of its draw. Likewise, record the respective number of improved units for each. Then consecutively number all the improved units and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers
Franklin Twp.	4	1-4
Pleasant View	60	5-64
Jackson Twp.	9	65-73
Johnston	100	74-173
Polk Twp.	10	174-183
Washington Twp.	14	184-197
Maryville	106	198-303
Camden Twp.	10	304-313
Salem	84	314-397
Total	<u>397</u>	

(3) The department appraiser shall determine the location of the improved properties selected for appraisal and document the procedure.

EXAMPLE:

City or Township	Number of Improved Commercial Units	Code Numbers	Sequence Number	Entry on Rolls
Franklin Twp.	4	1-4	2	2
Pleasant View	60	5-64	41	37
Jackson Twp.	9	65-73		
Johnston	100	74-173	80,119,158	7,46,85
Polk Twp.	10	174-183		
Washington Twp.	14	184-197	197	14
Maryville	106	198-303	236,275	39,78
Camden Twp.	10	304-313		
Salem	84	314-397	314,353	1,40
Total	<u>397</u>			

1. The department appraiser shall locate the property to be appraised by finding the relationship between the sequence numbers and the code numbers and identify the property.

EXAMPLE: The first sequence number is 2. Since the improved commercial properties in Franklin Township have been assigned code numbers 1 to 4, sequence number 2 is in that location.

To identify this property, examine the Franklin Township assessment roll book and stop at the second improved commercial entry.

The department appraiser shall document the parcel number, owner's name, and legal description of this property.

2. The department appraiser shall appraise the property selected unless it is ineligible because of any of the following restrictions:

- Vacant building
- Current-year sale
- Partial assessment
- Prior equalization appraisal

**Tax-exempt**

Only one portion of a total property unit (example—a parking lot of a grocery store)

Value established by court action

Value is not more than \$10,000

Building on leased land

3. The department appraiser shall determine a substitute property if the originally selected one is ineligible. In ascending order, select code numbers until an eligible property is found.

EXAMPLE: If code number 2 is ineligible, use code number 3 as a substitute. If code number 3 is ineligible, use code number 4, etc., until an eligible property is found.

If the procedure described in 71.12(4) “c”(3)“3” moves the substitute property to a city or township, select substitute code numbers in descending order until an eligible property is found.

If the procedure described in the previous paragraph moves the substitute property to a preceding city or township, go back to the procedure of 71.12(4) “c”(3)“3” even if it moves the substitute property to a subsequent city or township.

4. Select an alternate property for the originally selected property which also would be eligible. This is necessary because at the time of appraisal the property may be found to be ineligible due to one of the restrictions in 71.12(4) “c”(3)“2.” Alternate properties are selected by using the same procedure described in 71.12(4) “c”(3)“3.”

5. Follow procedures 71.12(4) “c”(3), items “1” to “4,” for each of the other originally selected sequence numbers.

**71.12(5) *Industrial real estate.*** It is not possible to determine the level of assessment of industrial real estate by using accepted equalization methods. The lack of sales data precludes the use of an assessment/sales ratio study, the diverse nature of industrial real estate precludes the use of a countywide or citywide income capitalization study, and the limited number of industrial properties precludes the use of sample appraisals. The level of assessment of industrial real estate can only be determined by the valuation of individual parcels of industrial real estate. Any attempt to equalize industrial valuations by using accepted equalization methods would create an arbitrary result. However, under the circumstances set forth in Iowa Code subsection 421.17(10), the director may correct any errors in such assessments which are brought to the director’s attention, including errors related to property with a dual classification if the primary use of the property is from the industrial portions.

**71.12(6) *Centrally assessed property.*** Property assessed by the director of revenue pursuant to Iowa Code chapters 428 and 433 to 438, inclusive, is equalized internally by the director in the making of the assessments. Further, the assessments are equalized with the aggregate valuations of other classes of property as a result of actions taken by the director of revenue pursuant to rule 701—71.11(441).

**71.12(7) *Miscellaneous real estate.*** Since it is not possible to use accepted equalization methods to determine the level of assessment of mineral rights and interstate railroad and toll bridges, these classes of property shall not be subject to equalization by the director of revenue. However, under the circumstances set forth in Iowa Code section 421.17(10), the director may correct any errors in assessments which are brought to the director’s attention.

This rule is intended to implement Iowa Code sections 441.21, 441.47, 441.48 and 441.49.

[ARC 7726B, IAB 4/22/09, effective 5/27/09; ARC 9478B, IAB 4/20/11, effective 5/25/11; ARC 1765C, IAB 12/10/14, effective 1/14/15]

**701—71.13(441) Tentative equalization notices.** Prior to the issuance of the final equalization order to each county auditor, a tentative equalization notice providing for proposed percentage adjustments to the aggregate valuations of classes of property as set forth in rule 701—71.12(441) shall be mailed to the county auditor whose valuations are proposed to be adjusted. The tentative equalization notice constitutes the ten days’ notice required by Iowa Code section 441.48.

This rule is intended to implement Iowa Code sections 441.47 and 441.48.

**701—71.14(441) Hearings before the director.**

**71.14(1) *Protests.*** Written or oral protest against the proposed percentage adjustments as set forth in the tentative equalization notice issued by the director of revenue shall be made only on behalf of the

affected assessing jurisdiction. The protests shall be made only by officials of the assessing jurisdiction, including, but not limited to, an assessing jurisdiction's city council or board of supervisors, assessor, or city or county attorney. An assessing jurisdiction may submit a written protest in lieu of making an oral presentation before the director, or may submit an oral protest supported by written documentation. Protests against the adjustments in valuation contained in the tentative equalization notices shall be limited to a statement of the error or errors complained of and shall include such facts as might lead to their correction. No other factors shall be considered by the director in reviewing the protests. Protests and hearings on tentative equalization notices before the director are excluded from the provisions of the Iowa Administrative Procedure Act governing contested case proceedings.

**71.14(2) *Conduct of hearing.*** The director shall schedule each hearing so as to allow the same amount of time within which each assessing jurisdiction can make its presentation. During the hearing each assessing jurisdiction shall be afforded the opportunity to present evidence relevant to its protest. The director or the director's designated representative shall preside at the hearing which shall be held at the time and place designated by the director or such other time and place as may be mutually agreed upon by the director and the protesting assessing jurisdiction.

This rule is intended to implement Iowa Code section 441.48.

**701—71.15(441) Final equalization order.** After the tentative equalization notice has been issued and an opportunity for a hearing described in rule 701—71.14(441) has been afforded, the director shall issue a final equalization order by mail to the county auditor. The order shall specify any percentage adjustments in the aggregate valuations of any class of property to be made effective for the county as of January 1 of the year in which the order is issued. The final equalization order shall be issued on or before October 1 unless for good cause it cannot be issued until after October 1. The final equalization order shall be implemented by the county auditor.

An assessing jurisdiction may appeal a final equalization order to the state board of tax review. The protest must be filed or postmarked not later than ten days after the date the final equalization order is issued.

This rule is intended to implement Iowa Code sections 441.48 and 441.49.

**701—71.16(441) Alternative method of implementing equalization orders.**

**71.16(1) *Application for permission to use an alternative method.*** A request by an assessing jurisdiction for permission to use an alternative method of applying the final equalization order must be made in writing to the director of revenue within ten days from the date the county auditor receives the final equalization order. The written request shall include the following information:

*a.* Facts evidencing the need to use an alternative method of implementing the final equalization order. Such facts shall clearly show that the proposed method is essential to ensure compliance with the provisions of Iowa Code section 441.21.

*b.* The exact methods to be employed in implementing the requested alternative method for each class of property.

*c.* The specific method of notifying affected property owners of the valuation changes.

*d.* Evidence that the alternative method will result in an aggregate property class valuation adjustment equivalent to that prescribed in the director's final equalization order.

The director of revenue shall review each written request for an alternative method and shall notify the assessing jurisdiction of acceptance or rejection of the proposed method by October 15. The assessing jurisdiction shall immediately inform the county auditor of the director's decision. The county auditor shall include a description of any approved alternative method in the required newspaper publication of the final equalization order. In those instances where the approved alternative method includes individual property owner notification, the publication shall not be considered proper notice to the affected property owners.

**71.16(2) *Implementation of alternative method.*** If an alternative method is approved by the director of revenue, any individual notification of property owners shall be completed by the assessor by not later than October 25.

**71.16(3) *Appeal by property owners.*** If an alternative method is approved by the director of revenue, the special session of the local board of review to hear equalization protests shall be extended to November 30. In such instances, protests may be filed up to and including November 4.

This rule is intended to implement Iowa Code section 441.49.

**701—71.17(441) Special session of boards of review.**

**71.17(1) *Grounds for protest.*** The only ground for protesting to the local board of review reconvened in special session pursuant to Iowa Code section 441.49 is that the application of the director's final equalization order results in a value greater than that permitted under Iowa Code section 441.21.

**71.17(2) *Authority of board of review.*** When in special session to hear protests resulting from equalization adjustments, the local board of review shall only act upon protests for those properties for which valuations have been increased as a result of the application of the director of revenue's final equalization order.

The local board of review may adjust valuations of those properties it deems warranted, but under no circumstance shall the adjustment result in a value less than that which existed prior to the application of the director's equalization order. The local board of review shall not adjust the valuation of properties for which no protests have been filed.

**71.17(3) *Report of board of review.*** In the report to the director of revenue of action taken by the local board of review in special session, the board of review shall report the aggregate valuation adjustments by class of property as well as all other information required by the director of revenue to determine if such actions may have substantially altered the equalization order.

**71.17(4) *Meetings of board of review.*** If the final equalization order does not increase the valuation of any class of property, the board of review is not required to meet during the special session. If the final equalization order increases the valuation of one or more classes of property but no protests are filed by the times specified in Iowa Code section 441.49, the board of review is not required to meet during the special session.

This rule is intended to implement Iowa Code sections 421.17(10) and 441.49.

**701—71.18(441) Judgment of assessors and local boards of review.** Nothing stated in these rules should be construed as prohibiting the exercise of honest judgment, as provided by law, by the assessors and local boards of review in matters pertaining to valuing and assessing of individual properties within their respective jurisdictions.

This rule is intended to implement Iowa Code sections 441.17 and 441.35.

**701—71.19(441) Conference boards.**

**71.19(1) *Establishment and abolition of office.***

*a.* As referred to in Iowa Code section 441.1, the term "federal census" includes any special census conducted by the Bureau of the Census of the U.S. Department of Commerce as well as the Bureau's decennial census.

*b.* Within 60 days of receiving the certified results of a federal census indicating the population of a city having its own assessor has fallen below 10,000, the city council of the city shall repeal the ordinance providing for its own assessor.

*c.* Whenever the office of city assessor is abolished, all moneys in the assessment expense fund and the special appraiser fund shall be transferred to the appropriate accounts in the county assessor's office, and all equipment and supplies shall be transferred to the county assessor's office. Employees of the city assessor's office may, at the discretion of the county assessor, become employees of the county assessor. However, any deputy assessor of the city may not be appointed a deputy county assessor unless certified as eligible for appointment pursuant to Iowa Code sections 441.5 and 441.10.

**71.19(2) *Membership.***

*a.* *County conference boards.* A county conference board consists of the county board of supervisors, the mayor of each incorporated city in the county whose property is assessed by the county assessor, and one member of the board of directors of each high school district in the county, provided

the member is a resident of the county. Members representing school districts serve one-year terms, and the board of directors each year must notify the clerk of the conference board of its representative on the conference board. A member of the board of directors of a school district may serve on the county conference board even though the member lives in a city having its own assessor (1978 O.A.G. 466).

*b. City conference boards.* A city conference board consists of the county board of supervisors, the city council, and the entire board of directors of each school district whose property is assessed by the city assessor.

**71.19(3) Voting.**

*a.* Votes on matters before a conference board shall be by units as provided in Iowa Code section 441.2. At least two members of each voting unit must be present in order for the unit to cast a vote (1960 O.A.G. 226). In the event the vote of the members of a voting unit ends in a tie, that unit shall not cast a vote on the particular matter before the conference board.

*b.* If a member of a conference board is absent from a meeting, the member's vote may not be cast by another person, except that a mayor pro tem as provided in Iowa Code section 372.14(3) may vote for the mayor when the mayor is absent from or unable to perform official duties.

This rule is intended to implement Iowa Code section 441.2.

**701—71.20(441) Board of review.**

**71.20(1) Membership.**

*a. Occupation of members.* One member of the county board of review must be actively engaged in farming as that member's primary occupation. However, it is not necessary for a board of review to have as a member one licensed real estate broker and one registered architect or person experienced in the building and construction field if the person cannot be located after a good faith effort to do so has been made by the conference board (1966 O.A.G. 416). In determining eligibility for membership on a board of review, a retired person is not considered to be employed in the occupation pursued prior to retirement, unless that person remains in reasonable contact with the former occupation, including some participation in matters associated with that occupation.

*b. Residency of members.* A person must be a resident of the assessor jurisdiction served to qualify for appointment as a member of the board of review. However, a member changing assessing jurisdiction residency after appointment to the board may continue to serve on the board until the member's current term of office expires.

*c. Term of office.* The term of office of members of boards of review shall be for six years and shall be staggered as provided in Iowa Code section 441.31. In the event of the death, resignation, or removal from office of a member of a board of review, the conference board or city council shall appoint a successor to serve the unexpired term of the previous incumbent.

*d. Membership on other boards.* A member of a board of review shall not at the same time serve on either the conference board or the examining board, or be an employee of the assessor's office (1948 O.A.G. 120, 1960 O.A.G. 226).

*e. Number of members.* A conference board or city council may at any time change the composition of a board of review to either three or five members. To reduce membership from five members to three members, the conference board or city council shall not appoint successors to fill the next two vacancies which occur (1970 O.A.G. 342). To increase membership from three members to five members, the conference board or city council shall appoint two additional members whose initial terms shall expire at such times so that no two board members' terms expire at the end of the same year. Also, the conference board or city council may increase the membership of the board of review by an additional two members if it determines that a large number of protests warrant the emergency appointments. If the board of review has ten members, not more than four additional members may be appointed by the conference board. The terms of the emergency members will not exceed two years.

*f. Removal from office.* A member of a board of review may be removed from office by the conference board or city council but only after specific charges have been filed by the conference board or city council.



*g. Appointment of members.* Members of a county board of review shall be appointed by the county conference board. Members of a city board of review shall be appointed by the city conference board in cities with an assessor or by the city council in cities without an assessor. A city without an assessor can only have a board of review if the population of the city is 75,000 or more. A city with a population of more than 125,000 may appoint a city board of review or request the county conference board to appoint a ten-member county board of review.

**71.20(2) Sessions of boards of review.**

*a.* It is mandatory that a board of review convene on May 1 and adjourn no later than May 31 of each year. However, if either date falls on a Saturday, Sunday, or legal holiday, the board of review shall convene or adjourn on the following Monday.

*b.* Extended session. If a board of review determines it will be unable to complete its work by May 31, it may request that the director of revenue extend its session up to July 15. The request must be signed by a majority of the membership of the board of review and must contain the reasons the board of review cannot complete its work by May 31. During the extended session, a board of review may perform the same functions as during its regular session unless specifically limited by the director of revenue.

*c.* Special session. If a board of review is reconvened by the director of revenue pursuant to Iowa Code section 421.17, the board of review shall perform those functions specified in the order of the director of revenue and shall perform no other functions.

**71.20(3) Actions initiated by boards of review.**

*a.* Internal equalization of assessments. A board of review in reassessment years as provided in Iowa Code section 428.4 has the power to equalize individual assessments as established by the assessor, but cannot make percentage adjustments in the aggregate valuations of classes of property (1966 O.A.G. 416). In nonreassessment years, a board of review can adjust the valuation of an entire class of property by adjusting all assessment by a uniform percentage. Nothing contained in this rule shall restrict the director from exercising the responsibilities set forth in Iowa Code section 421.17.

*b.* Omitted assessments. A board of review may assess for taxation any property which was not assessed by the assessor, including property which the assessor determines erroneously is not subject to taxation by virtue of enjoying an exempt status (*Talley v. Brown*, 146 Iowa 360, 125 N.W. 248 (1910)).

*c.* Notice to taxpayers. If the value of any property is increased by a board of review or a board of review assesses property not previously assessed by the assessor, the person to whom the property is assessed shall be notified by regular mail of the board's action. The notification shall state that the taxpayer may protest the action by filing a written protest with the board of review within five days of the date of the notice. After at least five days have passed since notifying the taxpayer, the board of review shall meet to take final action on the matter, including the consideration of any protest filed. However, if the valuations of all properties within a class of property are raised or lowered by a uniform percentage in a nonreassessment year, notice to taxpayers need be provided only by newspaper publication as described in Iowa Code section 441.35.

**71.20(4) Appeals to boards of review.**

*a.* A board of review may act only upon written protests which have been filed with the board of review between April 16 and May 5, inclusive. In the event May 5 falls on a Saturday or Sunday, protests filed the following Monday shall be considered to have been timely filed. Protests postmarked by May 5 or the following Monday if May 5 falls on a Saturday or Sunday shall also be considered to have been timely filed. All protests must be in writing and signed by the taxpayer or the taxpayer's authorized agent. A written request for an oral hearing must be made at the time of filing the protest and may be made by checking the appropriate box on the form prescribed by the department of revenue. Protests may be filed for previous years if the taxpayer discovers that a mathematical or clerical error was made in the assessment, provided the taxes have not been fully paid or otherwise legally discharged. The protester may combine on one form assessment protests on parcels separately assessed if the same grounds are relied upon as the basis for protesting each separate assessment. If an oral hearing is requested on more than one of the protests, the person making the combined protests may request that the oral hearings

be held consecutively. A board of review may allow protests to be filed in electronic format. Protests transmitted electronically are subject to the same deadlines as written protests.

*b.* Grounds for protest. Taxpayers may protest to a board of review on one or more of the grounds specified in Iowa Code section 441.37. The grounds for protest and procedures for considering protests are as follows:

(1) The assessment is not equitable when compared with those of similar properties in the same assessing district. If this ground is a basis for the protest, the protest must contain the legal descriptions and assessments of the comparable properties. The comparable properties selected by the taxpayer must be located within the same assessing district as the property for which the protest has been filed (*Maytag Co. v. Partridge*, 210 N.W.2d 584 (Iowa 1973)). In considering a protest based upon this ground, the board of review should examine carefully all information used to determine the assessment of the subject property and the comparable properties and determine that those properties are indeed comparable to the subject property. It is the responsibility of the taxpayer to establish that the other properties submitted are comparable to the subject property and that inequalities exist in the assessments (*Chicago & N. W. Ry. Co. v. Iowa State Tax Commission*, 257 Iowa 1359, 137 N.W.2d 246 (1965)).

(2) The property is assessed at more than its actual value as defined in Iowa Code section 441.21. If this ground is used, the taxpayer must state both the amount by which the property is overassessed and the amount considered to be the actual value of the property.

(3) The property is not assessable and should be exempt from taxation. If using this ground, taxpayers must state the reasons why it is felt the property is not assessable.

(4) There is an error in the assessment. An error in the assessment would most probably involve erroneous mathematical computations or errors in listing the property. The improper classification of property also constitutes an error in the assessment. If this ground is used, the taxpayer's protest must state the specific error alleged.

A board of review must determine:

1. If an error exists, and
2. How the error might be corrected.

(5) There is fraud in the assessment. If this ground of protest is used, the taxpayer's protest must state the specific fraud alleged, and the board of review must first determine if there is validity to the taxpayer's allegation. If it is determined there is fraud in the assessment, the board of review shall take action to correct the assessment and report the matter to the director of revenue.

(6) There has been a change of value of real estate since the last assessment. The board of review must determine that the value of the property as of January 1 of the current year has changed since January 1 of the previous reassessment year. This is the only ground upon which a protest pertaining to the valuation of a property can be filed in a year in which the assessor has not assessed or reassessed the property pursuant to Iowa Code section 428.4. In a year subsequent to a year in which a property has been assessed or reassessed pursuant to Iowa Code section 428.4, a taxpayer cannot protest to the board of review based upon actions taken in the year in which the property was assessed or reassessed (*James Black Dry Goods Co. v. Board of Review for City of Waterloo*, 260 Iowa 1269, 151 N.W.2d 534 (1967); *Commercial Merchants Nat'l Bank and Trust Co. v. Board of Review of Sioux City*, 229 Iowa 1081, 296 N.W. 203 (1941)).

*c.* Disposition of protests. After reaching a decision on a protest, the board of review shall give the taxpayer written notice of its decision. The notice shall contain the following information:

- (1) The valuation and classification of the property as determined by the board of review.
- (2) If the protest was based on the ground the property was not assessable, the notice shall state whether the exemption is allowed and the value at which the property would be assessed in the absence of the exemption.
- (3) The specific reasons for the board's decision with respect to the protest.
- (4) That the board of review's decision may be appealed to the district court within 20 days of the board's adjournment or May 31, whichever date is later. If the adjournment date is known, the date shall be stated on the notice. If the adjournment date is not known, the notice shall state the date will be no

earlier than May 31. Notice of the appeal shall be served on the chairperson, presiding officer, or clerk of the board of review after the written notice of appeal has been filed with the clerk of district court.

This rule is intended to implement Iowa Code sections 441.31 to 441.37 and Iowa Code Supplement section 441.38 as amended by 2006 Iowa Acts, House File 2794.

**701—71.21(421,17A) Property assessment appeal board.** This rule applies to appeals filed before January 1, 2015, in which the property assessment appeal board has jurisdiction to hear appeals from the action of a local board of review. Appeals filed on or after January 1, 2015, are governed by 701—Chapter 126.

**71.21(1) *Establishment, membership, and location of the property assessment appeal board.***

a. A statewide property assessment appeal board is created for the purpose of establishing a consistent, fair, and equitable property assessment appeal process. The statewide property assessment appeal board is established within the department of revenue. The board's principal office shall be in the office of the department of revenue.

b. The property assessment appeal board shall consist of three members appointed by the governor and subject to confirmation by the senate. The members shall be appointed to staggered six-year terms beginning initially on January 1, 2007, and ending as provided in Iowa Code section 69.19. Members' subsequent terms shall begin and end as provided in Iowa Code section 69.19. The governor shall appoint from the members a chairperson, subject to confirmation by the senate, of the board to a two-year term. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as regular appointments are made.

Each member of the property assessment appeal board shall be qualified by virtue of at least two years' experience in the area of government, corporate, or private practice relating to property appraisal and property tax administration. Two members of the board shall be certified real property appraisers and one member shall be an attorney practicing in the area of state and local taxation or property tax appraisals. No more than two members of the board may be from the same political party as that term is defined in Iowa Code section 43.2.

c. The property assessment appeal board shall organize by appointing a secretary who shall take the same oath of office as the members of the board. The board may employ additional personnel as it finds necessary. All personnel employed by the board shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

**71.21(2) *Powers and duties of the board.*** The property assessment appeal board shall:

a. Review any final decision, finding, ruling, determination, or order of a local board of review relating to assessment protests, valuation, or application of an equalization order.

b. Affirm, reverse, or modify a final decision, finding, ruling, determination, or order of a local board of review.

c. Order the payment or refund of property taxes in a matter over which the board has jurisdiction.

d. Grant other relief or issue writs, orders, or directives that the board deems necessary or appropriate in the process of disposing of a matter over which the board has jurisdiction.

e. Subpoena documents and witnesses and administer oaths.

f. Adopt administrative rules pursuant to Iowa Code chapter 17A for the administration and implementation of its powers, including rules for practice and procedure for protests filed with the board, the manner in which hearings on appeals of assessments shall be conducted, filing fees to be imposed by the board, and for the determination of the correct assessment of property which is the subject of an appeal.

g. Adopt administrative rules pursuant to Iowa Code chapter 17A necessary for the preservation of order and the regulation of proceedings before the board, including forms or notice and the service thereof, which rules shall conform as nearly as possible to those in use in the courts of this state.

h. If an appeal to district court is taken from the action of the property assessment appeal board, notice of appeal shall be served as an original notice on the secretary of the board after the written notice of appeal has been filed with the clerk of district court.

**71.21(3) General counsel.** The property assessment appeal board shall employ a competent attorney to serve as its general counsel, and assistants to the general counsel as it finds necessary for the full and efficient discharge of its duties. The general counsel is the attorney for, and legal advisor of, the board. The general counsel or an assistant to the general counsel shall provide the necessary legal advice to the board in all matters and shall represent the board in all actions instituted in a court challenging the validity of a rule or order of the board. The general counsel shall devote full time to the duties of the office. During employment as general counsel to the board, the counsel shall not be a member of a political committee, contribute to a political campaign, participate in a political campaign, or be a candidate for partisan political office. The general counsel and assistants to the general counsel shall be considered state employees and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV.

**71.21(4) Compensation.** The members of the property assessment appeal board shall receive a salary set by the governor within a range established by the general assembly. The members of the board shall be considered state employees for purposes of salary and benefits and are subject to the merit system provisions of Iowa Code chapter 8A, subchapter IV. Members of the board and any employees of the board, when required to travel in the discharge of official duties, shall be paid their actual and necessary expenses incurred in the performance of their duties.

**71.21(5) Applicability and scope.** These subrules set forth herein govern the proceedings for all cases in which the property assessment appeal board (board) has jurisdiction to hear appeals from the action of a local board of review. For the purpose of these subrules, the following definitions shall apply:

“*Appellant*” means the party filing the notice of appeal with the secretary of the property assessment appeal board.

“*Board*” means the property assessment appeal board as created by Iowa Code section 421.1A and governed by Iowa Code chapter 17A and section 441.37A.

“*Department*” means the Iowa department of revenue.

“*Local board of review*” means the board of review as defined by Iowa Code section 441.31.

“*Party*” means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the chairperson, member or members of the property assessment appeal board who preside over an appeal of proceedings before the property assessment appeal board.

“*Secretary*” means the secretary for the property assessment appeal board.

**71.21(6) Appeal and jurisdiction.** Notice of appeal confers jurisdiction for the board. The procedure for appeals and parameters for jurisdiction are as follows:

a. Jurisdiction is conferred upon the board by written notice of appeal given to the secretary. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. The written notice of appeal shall be filed with the secretary within 20 calendar days after the date of adjournment of the local board of review or May 31, whichever is later. Appeals postmarked within this time period shall also be considered to have been timely filed. The appellant may appeal the action of the board of review relating to protests of assessment, valuation, or the application of an equalization order. No new grounds in addition to those set out in the protest to the local board of review can be pleaded, but additional evidence to sustain those grounds may be introduced. The appeal is a contested case.

b. Notice of appeal may be delivered in person, mailed by first-class mail, delivered to an established courier service for immediate delivery, or e-mailed to the board at [paab@iowa.gov](mailto:paab@iowa.gov).

c. For an appeal filed by e-mail to be timely, it must be received by the board by 11:59 p.m. on the last day for filing as established within the time period set forth in paragraph 71.21(6) “a.”

**71.21(7) Form of appeal.** The notice of appeal shall include:

- a. The appellant’s name, mailing address, e-mail address, and telephone number;
- b. The address of the property being appealed and its parcel number;
- c. A copy of the letter of disposition by the local board of review;
- d. A short and plain statement of the claim showing that the appellant is entitled to relief;
- e. The relief sought; and
- f. If the party is represented by an attorney or designated representative, the attorney or designated representative’s name, mailing address, e-mail address, and telephone number.

**71.21(8) *Scope of review.*** The board shall determine anew all questions arising before the local board of review which relate to the liability of the property to assessment or the amount thereof. There shall be no presumption as to the correctness of the valuation of the assessment appealed from. The burden of proof is on the appellant; however, when the appellant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the party seeking to uphold the valuation.

**71.21(9) *Notice to local board of review.*** The secretary shall mail a copy of the appellant's written notice of appeal and petition to the local board of review whose decision is being appealed. Notice to all affected taxing districts shall be deemed to have been given when written notice is provided to the local board of review.

**71.21(10) *Certification by local board of review.***

*a. Initial certification.* Within 21 days after notice of appeal is given, the local board of review shall certify to the board the original notice of assessment if any, the petition to the board of review, and a copy of the board of review's letter of disposition.

The local board of review shall also submit to the board in writing the name, address, telephone number, and e-mail address of the attorney representing the local board of review before the board. The local board of review may request additional time to certify a copy of its record to the board by submitting a request in writing or by e-mail to the board at [paab@iowa.gov](mailto:paab@iowa.gov).

*b. Full record certification prior to hearing.* At least 21 calendar days prior to the contested case hearing, the local board of review shall certify to the board the complete property record card for the subject property, the protest hearing minutes of the local board of review kept pursuant to Iowa Code chapter 21, and any information provided to or considered by the local board of review as part of the protest. The local board of review shall also send a copy of the full record to the opposing party.

**71.21(11) *Docketing.*** Appeals shall be assigned consecutive docket numbers. Records consisting of the case name and the corresponding docket number assigned to the case shall be maintained by the secretary. The records of each case shall also include each action and each act done, with the proper dates as follows:

- a.* The title of the appeal including jurisdiction and parcel identification number;
- b.* Brief statement of the grounds for the appeal and the relief sought;
- c.* Postmarked date of the local board of review's letter of disposition;
- d.* The manner and date/time of service of notice of appeal;
- e.* Date of notice of hearing;
- f.* Date of hearing; and
- g.* The decision by the board, or other disposition of the case, and date thereof.

**71.21(12) *Appearances.*** Any party may appear and be heard on its own behalf, or by its designated representative. A designated representative shall file a notice of appearance with the board for each case in which the representative appears for a party. Filing a motion or pleadings on behalf of a party shall be equivalent to filing a notice of appearance. A designated representative who is not an attorney shall also file a power of attorney. When acting as a designated representative on behalf of a party, the designated representative acknowledges that the representative has read and will abide by the board's rules.

**71.21(13) *Service and filing of papers.*** After the notice of appeal and petition have been filed, all motions, pleadings, briefs, and other papers shall be served upon each of the parties of record contemporaneously with their filing with the board.

*a. Service on a party—how and when made.* The parties may agree to exchange the certified record, motions, pleadings, briefs, exhibits, and any other papers with each other electronically or via any other means. All documents are deemed served at the time they are delivered in person to the opposing party; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent electronically if the parties have agreed to service by such means.

*b. Filing with the board—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the board; delivered to an established courier service for immediate delivery; mailed by first-class mail, so long as there is proof of mailing; or sent by e-mail as permitted by the applicable subrules of this rule.

- (1) For most filings in a docket made with the board, only an original is required.
- (2) For exhibits and other documents to be introduced at hearing, three copies are required. For a nonoral submission, only one copy is required.

(3) The board or presiding officer may request additional copies.

*c. Proof of mailing.* Proof of mailing includes: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the Property Assessment Appeal Board and to the names and addresses of the parties listed below by depositing the same in a (United States post office mailbox with correct postage properly affixed).

(Date)

(Signature)

**71.21(14) *Motions.*** No technical form for motions is required. All prehearing motions shall be in writing, shall be filed with the secretary and shall contain the reasons and grounds supporting the motion. The board shall act upon such motions as justice may require. Motions based on matters which do not appear of record shall be supported by affidavit. Any party may file a written response to a motion no later than 10 days from the date the motion is filed, unless the time period is extended or shortened by the board or presiding officer. The presiding officer may schedule oral argument on any motion.

*a.* Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least 10 days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by the board or presiding officer.

*b.* Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served no later than 90 days after service of the notice of appeal, unless good cause is shown for a later filing. Good cause may include, but is not limited to, information the moving party obtains through discovery. Any party resisting the motion shall file and serve a resistance within 20 days, unless otherwise ordered by the board or presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 30 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to subrule 71.21(34).

**71.21(15) *Authority of board to issue procedural orders.*** The board may issue preliminary orders regarding procedural matters. The secretary shall mail copies of all procedural orders to the parties.

**71.21(16) *Members participating.*** Each appeal may be considered by one or more members of the board, and the chairperson of the board may assign members to consider appeals. If the appeal is considered by less than the full membership of the board, the determination made by such members shall be forwarded to the full board for approval, rejection, or modification. Decisions shall affirm, modify, or reverse the decision, order, or directive from which an appeal was made. In order for the decision to be valid, a majority of the board must concur on the decision on appeal.

**71.21(17) *Notice of hearing.*** Unless otherwise designated by the board, the hearing shall be held in the hearing room of the board. All hearings are open to the public. If a hearing is requested, the secretary shall mail a notice of hearing to the parties at least 30 days prior to the hearing. The parties may jointly waive the 30-day notice by following the provisions of subrule 71.21(18). The notice of hearing shall contain the following information:

- a.* A statement of the date, time, and place of the hearing;
- b.* A statement of legal authority and jurisdiction under which the hearing is to be held;
- c.* A reference to the particular sections of the statutes and rules involved;
- d.* That the parties may appear and present oral arguments;

- e.* That the parties may submit evidence and briefs;
- f.* That the hearing will be electronically recorded by the board;
- g.* That a party may obtain a certified court reporter for the hearing at the party's own expense;
- h.* That audio visual aids and equipment are to be provided by the party intending to use them;
- i.* A statement that, upon submission of the appeal, the board will take the matter under advisement. A letter of disposition will be mailed to the parties; and
- j.* A compliance notice required by the Americans with Disabilities Act (ADA).

**71.21(18) *Waiver of 30-day notice.*** The parties to the appeal may jointly waive the 30-day written notice requirement for a hearing. The waiver must be in writing or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov) and signed by the parties or their designated representatives. By waiving notice, the parties acknowledge they are ready to proceed with the hearing. The parties will be contacted when a hearing date is available but notice for said date may be less than 30 days. The parties will have the right to accept or reject the hearing date.

**71.21(19) *Transcript of hearing.*** All hearings shall be electronically recorded. Any party may provide a certified court reporter at the party's own expense. Any party may request a transcription of the hearing. The board reserves the right to impose a charge for copies and transcripts.

**71.21(20) *Continuance.*** Any hearing may be continued for "good cause." Requests for continuance prior to the hearing shall be in writing or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov) and promptly filed with the secretary of the board immediately upon "the cause" becoming known. An emergency oral continuance may be obtained from the board or presiding officer based on "good cause" and at the discretion of the board or presiding officer. In determining whether to grant a continuance, the board or presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors, including the existence of a scheduling order.

**71.21(21) *Telephone proceedings.*** The board or presiding officer may conduct a telephone conference in which all parties have an opportunity to participate to resolve preliminary procedural motions. Other proceedings, including contested case hearings, may be held by telephone. The board will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when the location is chosen.

**71.21(22) *Disqualification of board member.*** A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification.

*a.* A board member or members shall withdraw from participation in the making of any proposed or final decision in an appeal before the board if that member is involved in one of the following circumstances:

- (1) Has a personal bias or prejudice concerning a party or a representative of a party;
- (2) Has personally investigated, prosecuted, or advocated in connection with the appeal, the specific controversy underlying that appeal, or another pending factually related matter, or a pending factually related controversy that may culminate in an appeal involving the same parties;
- (3) Is subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that matter, the specific controversy underlying the appeal, or a pending factually related matter or controversy involving the same parties;
- (4) Has acted as counsel to any person who is a private party to that proceeding within the past two years;

- (5) Has a personal financial interest in the outcome of the appeal or any other significant personal interest that could be substantially affected by the outcome of the appeal;
- (6) Has a spouse or relative within the third degree of relationship who:
  - 1. Is a party to the appeal, or an officer, director or trustee of a party;
  - 2. Is a lawyer in the appeal;
  - 3. Is known to have an interest that could be substantially affected by the outcome of the appeal;or
- 4. Is likely to be a material witness in the appeal; or
- (7) Has any other legally sufficient cause to withdraw from participation in the decision making in that appeal.

*b. Motion for disqualification.* If a party asserts disqualification on any appropriate ground, including those listed in paragraph “a,” the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.11. The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party. If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification, but must establish the grounds by the introduction of evidence into the record.

If a majority of the board determines that disqualification is appropriate, the board member shall withdraw. If a majority of the board determines that withdrawal is not required, the board shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal and a stay as provided under 701—Chapter 7.

*c. The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other functions of the board, including fact gathering for purposes other than investigation of the matter which culminates in an appeal. Factual information relevant to the merits of an appeal received by a person who later serves as presiding officer or a member of the board shall be disclosed if required by Iowa Code section 17A.11 and this rule.*

*d. Withdrawal.* In a situation where a presiding officer or any other board member knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

**71.21(23) Consolidation and severance.** The board or presiding officer may determine if consolidation or severance of issues or proceedings should be performed in order to efficiently resolve matters on appeal before the board.

*a. Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more appeal proceedings where:

- (1) The matters at issue involve common parties or common questions of fact or law;
- (2) Consolidation would expedite and simplify consideration of the issues involved; and
- (3) Consolidation would not adversely affect the rights of any of the parties to those proceedings.

*b. Severance.* The presiding officer may, for good cause shown, order any appeal proceedings or portions of the proceedings severed.

**71.21(24) Withdrawal.** An appellant may withdraw the appeal prior to the hearing. Such a withdrawal of an appeal must be in writing or by e-mail to [paab@iowa.gov](mailto:paab@iowa.gov) and signed by the appellant or the appellant’s designated representative. Unless otherwise provided, withdrawal shall be with prejudice and the appellant shall not be able to refile the appeal. Within 20 days of the board granting a withdrawal of appeal, the appellant may make a motion to reopen the file and rescind the withdrawal based upon fraud, duress, undue influence, or mutual mistake.

**71.21(25) Prehearing conference.** An informal conference of parties may be ordered at the discretion of the board or presiding officer or at the request of any party for any appropriate purpose.



Any agreement reached at the conference shall be made a part of the record in the manner directed by the board or presiding officer.

**71.21(26) Scheduling orders.**

*a. When required.* For appeals involving properties classified commercial or industrial and assessed at \$2 million or more, a scheduling order shall be sent to the parties to set dates for discovery, designation of witnesses, filing of motions, exchange of evidence, and a contested case hearing. In any other appeal, the parties may jointly enter a scheduling order or the board may, on its own motion, issue a scheduling order. The dates established in a scheduling order under this subrule shall supersede any dates set forth in other subrules of this rule.

*b. Prehearing conference.* A party may request a prehearing conference to resolve scheduling issues.

*c. Modification.* The parties may jointly agree to modify a scheduling order. If one party seeks to modify a scheduling order, the party must show good cause for the modification.

*d. Failure to comply.* A party that fails to comply with a scheduling order shall be required to show good cause for failing to comply with the order and that the other party is not substantially prejudiced. Failing to comply with a scheduling order may result in sanctions including, but not limited to, the exclusion of evidence or dismissal of the appeal.

**71.21(27) Hearing procedures.** A party to the appeal may request a hearing, or the appeal may proceed without a hearing. The local board of review may be present and participate at such hearing. Hearings may be conducted by the board or by one or more of its members.

*a. Authority of presiding officer.* The presiding officer presides at the hearing and may rule on motions, require briefs, issue a decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

*b. Representation.* Parties to the appeal have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative.

*c. Participation in hearing.* The parties to the appeal have the right to introduce evidence relevant to the grounds set out in the protest to the local board of review. Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

*d. Decorum.* The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

*e. Conduct of the hearing.* The presiding officer shall conduct the hearing in the following manner:

(1) The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

(2) The parties shall be given an opportunity to present opening statements;

(3) The parties shall present their cases in the sequence determined by the presiding officer;

(4) Each witness shall be sworn or affirmed by the presiding officer and shall be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law; and

(5) When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

**71.21(28) Discovery.**

*a. Discovery procedure.* Discovery procedures applicable in civil actions under the Iowa Rules of Civil Procedure are available to parties in cases before the board. Unless lengthened or shortened by these rules, the board or presiding officer, time periods for compliance with discovery shall be as provided in the Iowa Rules of Civil Procedure.

*b. Discovery motions.* Prior to filing any motion related to discovery, parties shall make a good-faith effort to resolve discovery disputes without the involvement of the board or presiding officer. Any motion related to discovery shall allege that the moving party has made a good-faith attempt to resolve the discovery issues involved with the opposing party. Opposing parties shall be given the opportunity to respond within 10 days of the filing of the motion unless the time is shortened by order

of the board or presiding officer. The board or presiding officer may rule on the basis of the written motion and any response or may have a hearing or other proceedings on the motion.

*c. Admissibility of evidence.* Evidence obtained in discovery may be used in the case proceeding if that evidence would otherwise be admissible in that proceeding.

**71.21(29) Subpoenas.**

*a. Issuance of Subpoena for Witness.*

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 10 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

*b. Issuance of Subpoena for Production of Documents.*

(1) An agency subpoena shall be issued to a party on request. The request shall be in writing and include the name, address, and telephone number of the requesting party. In absence of good cause for permitting later action, a request for subpoena must be received at least 20 days before the scheduled hearing.

(2) Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas.

*c. Motion to quash or modify.* Upon motion, the board or presiding officer may quash or modify a subpoena for any lawful reason in accordance with the Iowa Rules of Civil Procedure.

**71.21(30) Evidence.**

*a. Admissibility.* The presiding officer shall rule on admissibility of evidence and may take official notice of facts in accordance with all applicable requirements of law.

*b. Stipulations.* Stipulation of facts by the parties is encouraged. The presiding officer may make a decision based on stipulated facts.

*c. Scope of admissible evidence.* Evidence in the proceeding shall be confined to the issues contained in the notice from the board prior to the hearing, unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. Admissible evidence is that which, in the opinion of the board, is determined to be material, relevant, or necessary for the making of a just decision. Irrelevant, immaterial or unduly repetitious evidence may be excluded. A finding shall be based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. Hearsay evidence is admissible. The rules of privilege apply in all proceedings before the board.

*d. Exhibits, exhibit and witness lists, and briefs.* The party seeking admission of an exhibit must provide an opposing party with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents to be used as evidence, exhibit lists, and a list of witnesses intended to be called at hearing shall be served on the opposing party at least 21 calendar days prior to the hearing, unless the time period is extended or shortened by the board or presiding officer or the parties have entered a scheduling order under subrule 71.21(26). All exhibits and briefs admitted into evidence shall be appropriately marked and be made part of the record. The appellant shall mark exhibits with consecutive numbers. The appellee shall mark exhibits with consecutive letters.

*e. Objections.* Any party may object to specific evidence or may request limits on the scope of examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which the objection is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

*f. Offers of proof.* Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony.

If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

**71.21(31) Settlements.** Parties to a case may propose to settle all or some of the issues in the case at any time prior to the issuance of a final decision. A settlement of an appeal shall be jointly signed by the parties, or their designated representatives, and filed in writing or by an electronic copy e-mailed to [paab@iowa.gov](mailto:paab@iowa.gov). The board will not approve settlements unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest. Board adoption of a settlement constitutes the final decision of the board on issues addressed in the settlement.

**71.21(32) Records access.**

*a. Location of record.* A request for access to a record should be directed to the custodian.  
*b. Office hours.* Open records shall be made available during all customary office hours, which are 8 a.m. to 4:30 p.m. Monday through Friday excluding holidays.

*c. Request for access.* Requests for access to open records may be made in writing, in person, by e-mail, or by telephone. Requests shall identify the particular records sought by name or description in order to facilitate the location of the record. Mail, e-mail, and telephone requests shall include the name, address, and telephone number of the person requesting the information. A person shall not be required to give a reason for requesting an open record.

*d. Response to requests.* Access to an open record shall be provided promptly upon request unless the size or nature of the request makes prompt access infeasible. If the size or nature of the request for access to an open record requires time for compliance, the custodian shall comply with the request as soon as feasible. Access to an open record may be delayed for one of the purposes authorized by Iowa Code section 22.8(4) or 22.10(4). The custodian shall promptly give notice to the requester of the reason for any delay in access to an open record and an estimate of the length of that delay and, upon request, shall promptly provide that notice to the requester in writing. The custodian of a record may deny access by members of the public to the record only on the grounds that such a denial is warranted under Iowa Code sections 22.8(4) and 22.10(4), or that it is a confidential record, or that its disclosure is prohibited by a court or board order. Access by members of the public to a confidential record is limited by law and, therefore, may generally be provided only in accordance with the applicable provisions of law.

*e. Security of record.* No person may, without permission from the secretary, search or remove any record from board files. Examination and copying of board records shall be supervised by the secretary. Records shall be protected from damage and disorganization.

*f. Copying.* A reasonable number of copies of an open record may be made in the board's office. If photocopy equipment is not available, the custodian shall permit examination of the record and shall arrange to have copies promptly made elsewhere.

*g. Fees.*

(1) When charged. The board may charge fees in connection with the examination or copying of records only if the fees are authorized by law. To the extent permitted by applicable provisions of law, the payment of fees may be waived when the imposition of fees is inequitable or when a waiver is in the public interest.

(2) Copying and postage costs. Price schedules for published materials and for photocopies of records supplied by the board are available from the custodian. Copies of records may be made by or for members of the public on board photocopy machines or from electronic storage systems at cost as determined and made available by the custodian. When the mailing of copies of records is requested, the actual costs of such mailing may also be charged to the requester.

(3) Supervisory fee. An hourly fee may be charged for actual board expenses in supervising the examination and copying of requested records when the supervision time required is in excess of one hour. The custodian shall provide the hourly fees to be charged for supervision of records during examination and copying. That hourly fee shall not be in excess of the hourly wage of a board clerical employee who ordinarily would be appropriate and suitable to perform this supervisory function.

(4) Advance deposits.

1. When the estimated total fee chargeable under this paragraph exceeds \$25, the custodian may require a requester to make an advance payment to cover all or a part of the estimated fee.

2. When a requester has previously failed to pay a fee chargeable under this paragraph, the custodian may require advance payment of the full amount of any estimated fee before the custodian processes a new request from that requester.

**71.21(33) Motion to reopen records.** The board or presiding officer, on the board's or presiding officer's own motion or on the motion of a party, may reopen the record for the reception of further evidence. A motion to reopen the record may be made anytime prior to the issuance of a final decision.

**71.21(34) Rehearing and reconsideration.**

*a. Application for rehearing or reconsideration.* Any party to a case may file an application for rehearing or reconsideration of the final decision. The application for rehearing or reconsideration shall be filed within 20 days after the final decision in the case is issued.

*b. Contents of application.* Applications for rehearing or reconsideration shall specify the findings of fact and conclusions of law claimed to be erroneous, with a brief statement of the alleged grounds of error. Any application for rehearing or reconsideration asserting that evidence has arisen since the final order was issued as a ground for rehearing or reconsideration shall present the evidence by affidavit that includes an explanation of the competence of the person to sponsor the evidence and a brief description of the evidence sought to be included.

*c. Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the board shall serve copies on all parties.

*d. Requirements for objections to applications for rehearing or reconsideration.* An answer or objection to an application for rehearing or reconsideration must be filed within 14 days of the date the application was filed with the board, unless otherwise ordered by the board.

*e. Disposition.* Any application for a rehearing shall be deemed denied unless the board grants the application within 20 days after its filing.

**71.21(35) Dismissal.** If a party fails to appear or participate in an appeal hearing after proper service of notice, the presiding officer may dismiss the appeal unless a continuance is granted for good cause. If an appeal is dismissed for failure to appear, the board shall have no jurisdiction to consider any subsequent appeal on the appellant's protest.

**71.21(36) Waivers.**

*a.* In response to a request, or on its own motion, the board may grant a waiver from a rule adopted by the board, in whole or in part, as applied to a specific set of circumstances, if the board finds, based on clear and convincing evidence, that:

(1) The application of the rule would pose an undue hardship on the person for whom the waiver is requested;

(2) The waiver would not prejudice the substantial rights of any person;

(3) The provisions of the rule subject to a petition for waiver are not specifically mandated by statute or another provision of law; and

(4) Substantially equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule for which the waiver is requested.

*b.* Persons requesting a waiver may submit their request in writing. The waiver request must state the relevant facts and reasons the requester believes will justify the waiver, if the reasons have not already been provided to the board in another pleading.

*c.* Grants or denials of waiver requests shall contain a statement of the facts and reasons upon which the decision is based. The board may condition the grant of the waiver on such reasonable conditions as appropriate to achieve the objectives of the particular rule in question. The board may at any time cancel a waiver upon appropriate notice and opportunity for hearing.

**71.21(37) Appeals of board decisions.** A party may seek judicial review of a decision rendered by the board by filing a written notice of appeal with the clerk of the district court where the property is located within 20 days after the letter of disposition of the appeal by the board is mailed to the appellant. Iowa Code chapter 17A applies to judicial review of the board's final decision. The filing of the petition does not itself stay execution or enforcement of the board's final decision. The board may grant a stay on appropriate terms or other temporary remedies during the pendency of judicial review.

**71.21(38) *Stays of agency actions.*** Any party to a contested case proceeding may petition the board for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy. In determining whether to grant a stay, the board or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5) “c.” A stay may be vacated by the board upon application of any other party.

**71.21(39) *Time requirements.*** Time shall be computed as provided in Iowa Code section 4.1(34).

**71.21(40) *Judgment of the board.*** Nothing in this rule should be construed as prohibiting the exercise of honest judgment, as provided by law, by the board in matters pertaining to valuation and assessment of individual properties.

This rule is intended to implement Iowa Code sections 421.1, 421.1A as amended by 2013 Iowa Acts, Senate File 295, division VI, 421.2, 441.37A as amended by 2013 Iowa Acts, Senate File 295, division VI, 441.38 and 441.49 and chapter 17A.

[ARC 9877B, IAB 11/30/11, effective 1/4/12; ARC 1306C, IAB 2/5/14, effective 3/12/14; ARC 1496C, IAB 6/11/14, effective 5/20/14; ARC 2108C, IAB 8/19/15, effective 9/23/15]

**701—71.22(428,441) Assessors.**

**71.22(1) *Conflict of interest.*** An assessor shall not act as a private appraiser, or as a real estate broker or option agent in the jurisdiction in which serving as assessor (1976 O.A.G. 744).

**71.22(2) *Listing of property.***

*a.* Forms. Assessors may design and use their own forms in lieu of those prescribed by the department of revenue provided that the forms contain all information contained on the prescribed form, are not substantially different from the prescribed form, and are approved by the director of revenue.

*b.* Assessment rolls. Assessment rolls must be prepared in duplicate for each property in a reassessment year as defined in Iowa Code section 428.4. However, the copy of the roll does not have to be issued to a taxpayer unless there is a change in the assessment or the taxpayer requests the issuance of the duplicate copy.

*c.* Whenever a date specified in Iowa Code chapter 441 falls on a Saturday, Sunday, or legal holiday, the action required to be completed on or before that date shall be considered to have been timely completed if performed on or before the following day which is not a Saturday, Sunday, or holiday.

*d.* Buildings erected or improvements made by a person other than the owner of the land on which they are located are to be assessed to the owner of the buildings or improvements. Unpaid taxes are a lien on the buildings or improvements and not a lien on the land on which they are located.

**71.22(3) *Notice of protest.*** If a protest or appeal is filed with the board of review, property assessment appeal board, or district court against the assessment of property valued at \$5 million or more, the assessor shall provide notice to the school district in which the property is located within ten days of the filing of the protest or the appeal, as applicable.

This rule is intended to implement Iowa Code chapter 428 and Iowa Code chapter 441 as amended by 2006 Iowa Acts, House File 2797.

**701—71.23(421,428,441) Valuation of multiresidential real estate.** Multiresidential real estate shall be assessed at a percent of its actual value as defined in Iowa Code section 441.21. In determining the actual value of multiresidential real estate, city and county assessors shall use the appraisal manual issued by the department of revenue pursuant to Iowa Code section 421.17(18) as well as a locally conducted assessment/sales ratio study, an analysis of sales of comparable properties, and any other relevant data.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[ARC 1765C, IAB 12/10/14, effective 1/14/15]

**701—71.24(421,428,441) Valuation of dual classification property.** Real estate with a dual classification of commercial/multiresidential or industrial/multiresidential shall be assessed at its actual value as defined in Iowa Code section 441.21.

**71.24(1) *Allocation of dual classification values.*** The assessor shall value as a whole properties that have portions classified as multiresidential and portions classified as commercial or industrial using

the methodology found in rule 701—71.23(421,428,441). After the assessor has assigned a value to the property, the value shall be allocated between the two classes of property based on the appropriate appraisal methodology. The assessor shall allocate land value proportionately by class.

**71.24(2) *Notice of valuation.*** The valuation notice issued pursuant to Iowa Code section 441.23 shall include a breakdown of the valuation by class for the current year and the prior year.

**71.24(3) *Protest of assessment.*** The valuation and assessment of property with a dual classification shall be considered one assessment, and any protest of assessment brought under Iowa Code section 441.37 or subsequent appeal must be made on the entire assessment. Protests of assessments on the valuation of only one class of property are not permitted. The board of review shall review the valuation in total as both classifications are subject to the board's adjustment in any review proceeding. Likewise, any tribunal or court reviewing the board's decision shall base its review on the entire assessment.

This rule is intended to implement Iowa Code sections 421.17, 428.4 and 441.21 as amended by 2013 Iowa Acts, Senate File 295.

[ARC 1765C, IAB 12/10/14, effective 1/14/15]

### **701—71.25(441,443) Omitted assessments.**

#### **71.25(1) *Property subject to omitted assessment.***

*a. Land and buildings.* An omitted assessment can be made only if land or buildings were not listed and assessed by the assessor. The failure to list and assess an entire building is an omission for which an omitted assessment can be made even if the land upon which the building is located has been listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412 (Iowa 1984). However, the failure to consider the value added as a result of an improvement made does not constitute an omission for which an omitted assessment can be made if the building or land to which the improvement was made has been listed and assessed.

*b. Previously exempt property.* Property which has been erroneously determined to be exempt from taxation may be restored to taxation by the making of an omitted assessment. See *Talley v. Brown*, 146 Iowa 360, 125 N.W. 243 (1910). An omitted assessment is also made to restore to taxation previously exempt property which ceases to be eligible for an exemption.

#### **71.25(2) *Officials authorized to make an omitted assessment.***

*a. Local board of review.* A local board of review may make an omitted assessment of property during its regular session only if the property was not listed and assessed as of January 1 of the current assessment year. For example, during its regular session which begins May 1, 1986, a local board of review may make an omitted assessment only of property that was not assessed by the assessor as of January 1, 1986. During that session, the board of review could not make an omitted assessment for an assessment year prior to 1986.

*b. County auditor and local assessor.* The county auditor and local assessor may make an omitted assessment. However, no omitted assessment can be made by the county auditor or local assessor if taxes based on the assessment year in question have been paid or otherwise legally discharged. For example, if a tract of land was listed and assessed and taxes levied against that assessment have been paid or legally discharged, no omitted assessment can be made of a building located upon that tract of land even though the building was not listed and assessed at the time the land was listed and assessed. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984).

*c. County treasurer.* The county treasurer may make an omitted assessment within two years from the date the tax list which should have contained the assessment should have been delivered to the county treasurer. For example, for the 1999 assessment year, the tax list is to be delivered to the county treasurer on or before June 30, 2000. Thus, the county treasurer may make an omitted assessment for the 1999 assessment year at any time on or before June 30, 2002. The county treasurer may make an omitted assessment of a building even if taxes levied against the land upon which the building is located have been paid or legally discharged. See *Okland v. Bilyeu*, 359 N.W.2d 412, 417 (Iowa 1984). The county treasurer may not make an omitted assessment if the omitted property is no longer owned by the person who owned the property on January 1 of the year the original assessment should have been made.

*d. Director of revenue.* The director of revenue may make an omitted assessment of any property assessable by the director at any time within two years from the date the assessment should have been made.

This rule is intended to implement Iowa Code chapter 440 and sections 443.6 through 443.15 as amended by 1999 Iowa Acts, chapter 174.

**701—71.26(441) Assessor compliance.** The assessor shall determine the value of real property in accordance with rules adopted by the department of revenue and in accordance with forms and guidelines contained in the Iowa Real Property Appraisal Manual prepared by the department. The assessor may use an alternative manual to value property if it is a unique type of property not covered in the manual prepared by the department.

If the department finds that an assessor is not in compliance with the rules of the department relating to valuation of property or has disregarded the forms and guidelines contained in the real property appraisal manual, the department shall notify the assessor and each member of the conference board for that assessing jurisdiction. The notice shall be mailed by restricted certified mail and shall specify the areas of noncompliance and the steps necessary to achieve compliance. The notice shall also inform the assessor and conference board that if compliance is not achieved, a penalty may be imposed.

The conference board shall respond to the department within 30 days of receipt of the notice of noncompliance. The conference board may respond to the notice by asserting that the assessor is in compliance with the rules, guidelines, and forms of the department or by informing the department that the conference board intends to submit a plan of action to achieve compliance. If the conference board responds to the notification by asserting that the assessor is in compliance, a hearing before the director of revenue shall be held on the matter within 60 days of receipt of the notice of noncompliance. If it is agreed that the assessor is not in compliance, the conference board shall submit a plan of action within 60 days of receipt of the notice of noncompliance.

The plan shall contain a time frame under which compliance shall be achieved, which shall be no later than January 1 of the following assessment year. The plan of action shall contain the signature of the assessor and of the chairperson of the conference board. The department shall review the plan to determine whether the plan is sufficient to achieve compliance. Within 30 days of receipt of the plan, the department shall notify the assessor and the chairperson of the conference board that it has accepted the plan or that it is necessary to submit an amended plan of action.

By January 1 of the assessment year following the calendar year in which the plan was submitted to the department, the conference board shall submit a report to the department verifying that the plan of action was followed and compliance has been achieved. The department may conduct a field inspection to ensure that the assessor is in compliance. By January 31, the department shall notify the assessor and the conference board, by restricted certified mail, either that compliance has been achieved or that the assessor remains in noncompliance. If the department determines that the assessor remains in noncompliance, the department shall take steps to withhold up to 5 percent of the reimbursement payment authorized in Iowa Code section 425.1 until the director of revenue determines that the assessor is in compliance.

If the conference board disputes the determination of the department, the chairperson of the conference board may appeal the determination to the state board of tax review.

This rule is intended to implement Iowa Code Supplement section 441.21.

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<sup>1</sup> Amendments nullified by 2000 Iowa Acts, SJR 2005, editorially removed IAC Supplement 7/12/00 pursuant to Iowa Code section 17A.6(3).



CHAPTER 26  
CONSTRUCTION SAFETY AND HEALTH RULES

[Prior to 9/24/86, Labor, Bureau of [530]]

[Prior to 10/7/98, see 347—Ch 26]

**875—26.1(88) Adoption by reference.** Federal Safety and Health Regulations for Construction beginning at 29 CFR 1926.16 and continuing through 29 CFR, Chapter XVII, Part 1926, are hereby adopted by reference for implementation of Iowa Code chapter 88. These federal rules shall apply and be interpreted to apply to the Iowa Occupational Safety and Health Act, Iowa Code chapter 88, not the Contract Work Hours and Safety Standards Act, and shall apply and be interpreted to apply to enforcement by the Iowa commissioner of labor, not the United States Secretary of Labor or the Federal Occupational Safety and Health Administration. The amendments to 29 CFR 1926 are adopted as published at:

38 Fed. Reg. 16856 (June 27, 1973)  
38 Fed. Reg. 27594 (October 5, 1973)  
38 Fed. Reg. 33397 (December 4, 1973)  
39 Fed. Reg. 19470 (June 3, 1974)  
39 Fed. Reg. 24361 (July 2, 1974)  
40 Fed. Reg. 23072 (May 28, 1975)  
41 Fed. Reg. 55703 (December 21, 1976)  
42 Fed. Reg. 2956 (January 14, 1977)  
42 Fed. Reg. 37668 (July 22, 1977)  
43 Fed. Reg. 56894 (December 5, 1978)  
45 Fed. Reg. 75626 (November 14, 1980)  
51 Fed. Reg. 22733 (June 20, 1986)  
51 Fed. Reg. 25318 (July 11, 1986)  
52 Fed. Reg. 17753 (May 12, 1987)  
52 Fed. Reg. 36381 (September 28, 1987)  
52 Fed. Reg. 46291 (December 4, 1987)  
53 Fed. Reg. 22643 (June 16, 1988)  
53 Fed. Reg. 27346 (July 20, 1988)  
53 Fed. Reg. 29139 (August 2, 1988)  
53 Fed. Reg. 35627 (September 14, 1988)  
53 Fed. Reg. 35953 (September 15, 1988)  
53 Fed. Reg. 36009 (September 16, 1988)  
53 Fed. Reg. 37080 (September 23, 1988)  
54 Fed. Reg. 15405 (April 18, 1989)  
54 Fed. Reg. 23850 (June 2, 1989)  
54 Fed. Reg. 30705 (July 21, 1989)  
54 Fed. Reg. 41088 (October 5, 1989)  
54 Fed. Reg. 45894 (October 31, 1989)  
54 Fed. Reg. 49279 (November 30, 1989)  
54 Fed. Reg. 52024 (December 20, 1989)  
54 Fed. Reg. 53055 (December 27, 1989)  
55 Fed. Reg. 3732 (February 5, 1990)  
55 Fed. Reg. 42328 (October 18, 1990)  
55 Fed. Reg. 47687 (November 14, 1990)  
55 Fed. Reg. 50687 (December 10, 1990)  
56 Fed. Reg. 2585 (January 23, 1991)  
56 Fed. Reg. 5061 (February 7, 1991)  
56 Fed. Reg. 41794 (August 23, 1991)  
56 Fed. Reg. 43700 (September 4, 1991)

57 Fed. Reg. 7878 (March 5, 1992)  
57 Fed. Reg. 24330 (June 8, 1992)  
57 Fed. Reg. 29119 (June 30, 1992)  
57 Fed. Reg. 35681 (August 10, 1992)  
57 Fed. Reg. 42452 (September 14, 1992)  
58 Fed. Reg. 21778 (April 23, 1993)  
58 Fed. Reg. 26627 (May 4, 1993)  
58 Fed. Reg. 35077 (June 30, 1993)  
58 Fed. Reg. 35310 (June 30, 1993)  
58 Fed. Reg. 40468 (July 28, 1993)  
59 Fed. Reg. 215 (January 3, 1994)  
59 Fed. Reg. 6170 (February 9, 1994)  
59 Fed. Reg. 36699 (July 19, 1994)  
59 Fed. Reg. 40729 (August 9, 1994)  
59 Fed. Reg. 41131 (August 10, 1994)  
59 Fed. Reg. 43275 (August 22, 1994)  
59 Fed. Reg. 65948 (December 22, 1994)  
60 Fed. Reg. 9625 (February 21, 1995)  
60 Fed. Reg. 11194 (March 1, 1995)  
60 Fed. Reg. 33345 (June 28, 1995)  
60 Fed. Reg. 34001 (June 29, 1995)  
60 Fed. Reg. 36044 (July 13, 1995)  
60 Fed. Reg. 39255 (August 2, 1995)  
60 Fed. Reg. 50412 (September 29, 1995)  
61 Fed. Reg. 5509 (February 13, 1996)  
61 Fed. Reg. 9248 (March 7, 1996)  
61 Fed. Reg. 31431 (June 20, 1996)  
61 Fed. Reg. 41738 (August 12, 1996)  
61 Fed. Reg. 43458 (August 23, 1996)  
61 Fed. Reg. 46104 (August 30, 1996)  
61 Fed. Reg. 56856 (November 4, 1996)  
61 Fed. Reg. 59831 (November 25, 1996)  
62 Fed. Reg. 1619 (January 10, 1997)  
63 Fed. Reg. 1295 (January 8, 1998)  
63 Fed. Reg. 1919 (January 13, 1998)  
63 Fed. Reg. 3814 (January 27, 1998)  
63 Fed. Reg. 13340 (March 19, 1998)  
63 Fed. Reg. 17094 (April 8, 1998)  
63 Fed. Reg. 20099 (April 23, 1998)  
63 Fed. Reg. 33468 (June 18, 1998)  
63 Fed. Reg. 35138 (June 29, 1998)  
63 Fed. Reg. 66274 (December 1, 1998)  
64 Fed. Reg. 22552 (April 27, 1999)  
66 Fed. Reg. 5265 (January 18, 2001)  
66 Fed. Reg. 37137 (July 17, 2001)  
67 Fed. Reg. 57736 (September 12, 2002)  
69 Fed. Reg. 31881 (June 8, 2004)  
70 Fed. Reg. 1143 (January 5, 2005)  
71 Fed. Reg. 2885 (January 18, 2006)  
70 Fed. Reg. 76985 (December 29, 2005)  
71 Fed. Reg. 10381 (February 28, 2006)  
71 Fed. Reg. 36008 (June 23, 2006)

71 Fed. Reg. 76985 (August 24, 2006)  
 72 Fed. Reg. 64428 (November 15, 2007)  
 73 Fed. Reg. 75583 (December 12, 2008)  
 75 Fed. Reg. 12685 (March 17, 2010)  
 75 Fed. Reg. 27429 (May 17, 2010)  
 75 Fed. Reg. 48130 (August 9, 2010)  
 76 Fed. Reg. 33606 (June 8, 2011)  
 77 Fed. Reg. 17764 (March 26, 2012)  
 76 Fed. Reg. 80738 (December 27, 2011)  
 77 Fed. Reg. 23118 (April 18, 2012)  
 77 Fed. Reg. 37598 (June 22, 2012)  
 77 Fed. Reg. 42988 (July 23, 2012)  
 77 Fed. Reg. 46949 (August 7, 2012)  
 78 Fed. Reg. 23841 (April 23, 2013)  
 78 Fed. Reg. 32116 (May 29, 2013)  
 79 Fed. Reg. 20629 (April 11, 2014)  
 79 Fed. Reg. 56960 (September 24, 2014)  
 79 Fed. Reg. 57798 (September 26, 2014)  
 80 Fed. Reg. 25518 (May 4, 2015)

This rule is intended to implement Iowa Code sections 84A.1, 84A.2, 88.2 and 88.5.

[**ARC 7699B**, IAB 4/8/09, effective 5/13/09; **ARC 8997B**, IAB 8/11/10, effective 9/15/10; **ARC 9230B**, IAB 11/17/10, effective 12/22/10; **ARC 9755B**, IAB 9/21/11, effective 10/26/11; **ARC 0173C**, IAB 6/13/12, effective 7/18/12; **ARC 0282C**, IAB 8/22/12, effective 9/26/12; **ARC 0726C**, IAB 5/1/13, effective 6/5/13; **ARC 0898C**, IAB 8/7/13, effective 9/11/13; **ARC 1049C**, IAB 10/2/13, effective 11/6/13; **ARC 1531C**, IAB 7/9/14, effective 8/13/14; **ARC 1803C**, IAB 12/24/14, effective 1/28/15; **ARC 1908C**, IAB 3/18/15, effective 4/22/15; **ARC 2136C**, IAB 9/16/15, effective 10/21/15]

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